

C O N F I D E N T I A L

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1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

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4 The State of Minnesota,

5 by Hubert H. Humphrey, III,

6 its attorney general,

7 and

8 Blue Cross and Blue Shield

9 of Minnesota,

10 Plaintiffs,

11 vs. File No. C1-94-8565

12 Philip Morris Incorporated, R.J.

13 Reynolds Tobacco Company, Brown

14 & Williamson Tobacco Corporation,

15 B.A.T. Industries P.L.C., Lorillard

16 Tobacco Company, The American

17 Tobacco Company, Liggett Group, Inc.,

18 The Council for Tobacco Research-U.S.A.,

19 Inc., and The Tobacco Institute, Inc.,

20 Defendants.

21 - - - - -

22 DEPOSITION OF JUDITH W. OVERALL

23 Volume I, Pages 1 - 188

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1 (The following is the deposition of JUDITH
2 W. OVERALL, taken pursuant to Notice of Taking
3 Deposition, at the offices of Dorsey & Whitney,
4 Attorneys at Law, Pillsbury Center South, 220 South
5 Sixth Street, Minneapolis, Minnesota, commencing at
6 approximately 12:10 o'clock p.m., November 20, 1997.)

7 APPEARANCES:

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C O N F I D E N T I A L

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1 I N D E X

2	EXHIBITS	DESCRIPTION	PAGE MARKED
3	Plf's Ex 4846	Amended Notice of Taking	
4		Expert Deposition of Judith	
5		W. Overall, Esq.	9
6	4847	Order Regarding Deposition	
7		and Expert Witness Provisions	10
8	4848	Expert Report of Judith W.	
9		Overall	11

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1 P R O C E E D I N G S

2 (Witness sworn.)

3 JUDITH W. OVERALL

4 called as a witness, being first

5 duly sworn, was examined and testified

6 as follows:

7 ADVERSE EXAMINATION

8 BY MR. McKENNA:

9 Q. Ms. Overall, my name is David McKenna. I
10 introduced myself to you a few moments ago. I'm with
11 the firm of Robins, Kaplan, Miller & Ciresi,
12 appearing here on behalf of the plaintiffs in this
13 litigation against the tobacco industry, and I'll be
14 taking your deposition here today and tomorrow
15 regarding your work as an expert witness on behalf of
16 the tobacco industry in this case. Do you understand
17 that?

18 A. Yes.

19 Q. Have you had your deposition taken before?

20 A. Yes.

21 Q. And under what circumstances was that?

22 A. It was in a dispute over ownership of a nursing
23 facility.

24 Q. And in what jurisdiction was that?

25 A. It was in the state of Mississippi.

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1 Q. County?

2 A. Tishomingo.

3 No, I take it back. That's where the facility
4 is located. It was actually in Hinds County,
5 Mississippi.

6 Q. And is that H-i-n-e-s?

7 A. H-i-n-d-s.

8 Q. And how long ago was that?

9 A. It was filed in January of '94 -- '5, and it was
10 settled about a year later, so early '95.

11 Q. Were you one of the principals in that
12 litigation?

13 A. Uh-huh.

14 THE REPORTER: Your answer?

15 THE WITNESS: Yes.

16 Q. And what was the caption --

17 What was the case styled as? What was it
18 called?

19 A. It was name of the plaintiffs, which was Don and
20 Anne Skinner, versus me and Gary and Carol Rollins.

21 Q. You were a named defendant.

22 A. Yes.

23 Q. Any other occasions when you've had your
24 deposition taken?

25 A. No.

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1 Q. As we proceed through this deposition, I'm going
2 to make certain assumptions about how we proceed.
3 One is that if I don't hear from you that you are
4 confused in some way by my question, that you
5 understand the question that I'm asking. Would that
6 be a fair assumption on my part?

7 A. Yes.

8 Q. And you will speak up and answer these questions
9 out loud and use the words "yes" and "no" instead of
10 the "uh-huh" or "huh-uh" that we're all so familiar
11 with using. Will you do that?

12 A. Yes.

13 Q. And, of course, at any time during this
14 proceeding if you want to take a break, I certainly
15 offer you the privilege of telling us whenever you
16 want to take a break and we'll accommodate that.
17 However, I'll ask you not to do that at any time
18 while a question is pending and which has not been
19 answered. Will that be all right?

20 A. It's all right, yes.

21 Q. Now you know that this deposition is pursuant to
22 a notice originally filed calling for this deposition
23 to happen in September, which was then, by agreement
24 of counsel, continued to October and then
25 subsequently to this date.

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1 A. Right.

2 Q. Did you see the actual deposition notice or the
3 amended deposition notice?

4 A. Not that I recall.

5 (Plaintiffs' Exhibit 4846 was marked
6 for identification.)

7 BY MR. McKENNA:

8 Q. Now that you have Exhibit 4846 in front of you,
9 does this refresh your recollection as to whether you
10 ever saw it?

11 A. No. I still don't remember seeing this, no.

12 Q. All right. I'll direct your attention to page
13 two of the exhibit, and beginning with the first full
14 paragraph, calling, in this notice, pursuant to Judge
15 Fitzpatrick's order of March 13, 1997, for you,
16 through counsel, to provide published articles....

17 You can read the text of that yourself there.

18 Were you ever asked by counsel to do that?

19 A. Yes.

20 Q. And did you do that?

21 A. Did I furnish any published articles?

22 Q. Right.

23 A. No, I did not.

24 Q. Was that because you haven't published any, or
25 because you had some other reason for not doing it?

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1 A. It's because I haven't published.

2 Q. Okay. Have you seen the order of Judge
3 Fitzpatrick which governs discovery in this matter?

4 A. I don't recall.

5 Q. All right.

6 (Plaintiffs' Exhibit 4847 was marked
7 for identification.)

8 BY MR. McKENNA:

9 Q. You have now in front of you Plaintiffs' Exhibit
10 4847, which is the order of Judge Fitzpatrick dated
11 March 13, 1997 with regard to deposition and expert
12 witnesses. Have you seen that before?

13 A. No.

14 Q. I do note that in your report you make reference
15 to that order. Had you seen it at the time you
16 prepared your report?

17 A. I knew that there was an order. I had not --
18 But as far as seeing it and reading it --

19 Q. Let me direct your attention to page seven of
20 the order governing the subject of expert witnesses,
21 and you will see that in paragraph A.1., that there
22 are a number of requirements with respect to expert
23 witnesses which are to be complied with by the expert
24 and by counsel, beginning with paragraph a) calling
25 for "a full and complete report prepared and signed

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1 by the expert setting forth the subject matter on
2 which the expert is expected to testify, and setting
3 forth the substance of the facts and opinions to
4 which the expert is expected to testify and a summary
5 of grounds of each such opinion." Do you see that
6 paragraph?

7 A. Yes.

8 Q. And have you been informed about that particular
9 requirement with respect to your appearance here?

10 A. Yes. Talking about my report.

11 Q. All right. And the report that you supplied --
12 And let's get a copy of that marked and out on
13 the table so we have that to refer to.

14 (Plaintiffs' Exhibit 4848 was marked
15 for identification.)

16 BY MR. McKENNA:

17 Q. Perhaps you'll just take a moment to look
18 through Plaintiffs' Exhibit 4848 and satisfy yourself
19 that this is a copy of the report that you prepared
20 in this matter with two tabbed attachments.

21 A. This appears to be a copy of my report, yes.

22 Q. Okay. And is it your testimony that Plaintiffs'
23 Exhibit 4848 in your opinion complies with paragraph
24 a) of Judge Fitzpatrick's order which is marked as
25 Plaintiffs' Exhibit 4847?

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1 A. I believe so, yes.

2 Q. All right. And paragraph b) of paragraph A.1.
3 of page seven of Judge Fitzpatrick's order, which is
4 Plaintiffs' Exhibit 4847, requires a current and
5 complete curriculum vitae, and you've attached that
6 to the report?

7 A. I attached, at the time this report was
8 prepared, a curriculum vitae, which is still in here
9 and should -- should not be. I sent in a
10 supplemental one because --

11 There is a later one. I mean it's not a whole
12 lot different, but --

13 Q. I think if you'll look at the pages, that there
14 are several additional pages which may be what you
15 are talking about as far as the supplement. Perhaps
16 not.

17 A. No.

18 Q. So do you have a copy of your supplemental or
19 your more-up-to-date curriculum vitae with you?

20 A. No, I don't.

21 MR. McKENNA: Counsel, do you have that?

22 MR. LINVILLE: I don't have it with me, but
23 we'd be glad to get you a copy.

24 Q. Can you tell me, Ms. Overall, in what respects
25 the supplemental vitae is different from the one

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1 which is attached as tab one to Plaintiffs' Exhibit
2 4848?

3 A. Okay. There's not a whole lot of difference,
4 but where this one lists -- "PRESENT EMPLOYMENT"
5 should be --

6 You see the heading "PRESENT EMPLOYMENT?" It's
7 basically in the wrong place. Starting with "2008,
8 LIMITED LIABILITY COMPANY," which is the last entry
9 on the first page, that should be former employment.
10 In other words, my present employment is with Tulane
11 University Medical Center. The rest of that is no
12 longer present employment.

13 Q. So that you're no longer associated with 2008?

14 A. That's correct.

15 Q. And when did your involvement with them
16 terminate?

17 A. January or February of '96.

18 Q. And was that the company over which the
19 litigation that you referred to --

20 Was that the company involved in the litigation
21 that you referred to in which your deposition was
22 taken?

23 A. Yes, it is.

24 Q. Are you still involved with CODE, Inc.?

25 A. No.

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1 Q. And when did your involvement with that company
2 cease?

3 A. Virtually the same time as with 2008.

4 Q. Were the two connected in some way?

5 A. They were -- owners --

6 Some owners in both were very much the same.

7 Q. And how about --

8 A. Or at least partially the same.

9 Q. So that the ending of your relationship with
10 the -- with your fellow owners of 2008 also spelled
11 the end of your involvement with CODE, Inc.?

12 A. Yes.

13 Q. And do you still have a function as a consultant
14 for assisted living facilities?

15 A. Not really. I do a little, but I do a lot of
16 consulting, in quotes, with people calling me on the
17 phone at Tulane saying "What do you think about
18 this?" So not really in terms of as a professional
19 consultant outside of my work at Tulane.

20 Q. At one time, however, you did maintain a
21 consulting practice with respect to assisted living
22 facilities; is that right?

23 A. Yes, I did.

24 Q. And the heading of a document that I have seen
25 refers to, in all caps, "CONSULTANT FOR ASSISTED

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1 LIVING FACILITIES." That was not the name of a
2 company; was it?
3 A. No, no. No.
4 Q. It was a description of an activity.
5 A. Right. Correct.
6 Q. Did you have a company name?
7 A. No.
8 Q. Did you have a separate taxpayer identification
9 number or any other business organizational
10 designation for this business?
11 A. No.
12 Q. And I take it, then, that any offices that might
13 have been involved with that happened to be wherever
14 your other office activities were located; correct?
15 You didn't have a separate office address, in other
16 words.
17 A. No.
18 Q. Did you ever have a letterhead or business cards
19 in connection with that?
20 A. No.
21 Q. Did that, prior to this case, ever involve
22 consultation in any litigation?
23 A. No.
24 Q. When you were doing that, what percentage of
25 your professional time did that take?

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1 MR. LINVILLE: Objection. This is the --
2 this is the assisted living consultancy?

3 MR. McKENNA: Yes.

4 A. It varied.

5 Q. Well give me an estimate.

6 A. It depended upon what the --

7 Give you an estimate?

8 Q. Yes.

9 A. It's hard to give you an estimate because it
10 wasn't what I was doing primarily, so it --

11 With the exception of one of these clients that
12 you are seeing, it was primarily not like --

13 It wasn't a full-time basis.

14 Q. Well I can appreciate it wasn't on a full-time
15 basis because you described other activities that
16 were going on at the same time, but you've listed it
17 as a part of your professional credentials and I'm
18 entitled to and interested in exploring with you what
19 part of your professional activities that were
20 devoted to that. Now over the period of --

21 First of all, over how many years or months did
22 you do that activity?

23 A. I started on this in 1990, and let's see, I've
24 done -- I have -- I've done consultant up -- up --
25 consultancy up through '94, but not on the basis that

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1 I did it earlier from 19 -- earlier, from 1990 to
2 '95 -- '94.

3 Q. Did you stop doing that also in January or
4 February of '96?

5 A. No. That has nothing to do with the other two.

6 Q. Well approximately when in 1996 did you stop
7 doing this consulting practice with respect to
8 assisted living facilities?

9 A. Actually I think I misspoke. I think I --
10 I slowed down on, as I say, outside consulting
11 outside of Tulane in '95. After I became -- began
12 working full time at Tulane, I have done a lot of, as
13 I said, in quotes, consulting, but not as an outside
14 consultant, but as a professor at Tulane.

15 Q. Well let's touch on that for a moment.

16 The work that you do of a consulting nature at
17 Tulane, taking this case aside, for example, have you
18 been paid for that consulting work?

19 A. No.

20 Q. That's been informal consultation that people
21 might call up --

22 A. Right.

23 Q. -- with a few questions about a
24 specifically-focused problem?

25 A. Yes.

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1 Q. Approximately how many calls on a monthly,
2 daily, weekly basis would you get like that?

3 A. That varies.

4 Q. Okay. It varies --

5 I'm looking for a sense of scope on this. Are
6 you someone that is consulted often, a few times a
7 month, or a few times a year, or -- or daily?

8 A. Not daily.

9 Q. Okay. Weekly?

10 A. Sometimes. Sometimes I -- I'm working with an
11 individual who calls me for small questions, which
12 don't take a lot of time to answer. Other times I'm
13 asked to serve in a capacity as a consultant, again
14 within the academic frame of the term, for things
15 like --

16 For example, we just in August -- in October had
17 the National Conference of the American -- it's Homes
18 Services -- Homes and Services for the Elderly, and I
19 served in a consulting capacity in preparing the --
20 you know, the educational part of the conference, et
21 cetera. So it varies. That took, oh, I don't
22 remember -- that was not -- that's like a day, so
23 that's not something that took for ages. It's
24 things like that where I served. I served on a
25 committee of ex-organizations, that type of thing, --

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1 Q. All right.

2 A. -- in addition to answering specific questions
3 from specific people and organizations.

4 Q. Okay. Now as far as the --

5 Referring now to your Tulane consulting, the
6 specific questions by specific people and
7 organizations, give us an example of some of the
8 businesses which you've consulted with with respect
9 to those kinds of things.

10 A. Well I'm not sure that "consult" is the correct
11 term. I'm not sure we're using the term correctly
12 here.

13 Q. Uh-huh.

14 A. There's people calling asking me --

15 I guess perhaps "advice" is a better word than
16 "consult," because I don't consider it the same as
17 what I was --

18 I don't know whether you would actually consider
19 that consulting as the way you're asking me the
20 question, is what I'm trying to say.

21 Q. All right. At any rate, you don't charge for
22 that.

23 A. That's correct, I don't charge for it.

24 Q. And your activities in that regard consist of,
25 would it be fair to say, a few moments on the

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1 telephone discussing something with somebody?

2 MR. LINVILLE: Objection.

3 A. I have actually gone out and looked at
4 facilities.

5 Q. With a view toward doing what?

6 A. Just looking at them, seeing how they're set up,
7 how they're --

8 But this is, as I say, this is not something I
9 do frequently. That I want you to know.

10 Yes, a lot of it is on the phone, in meetings.

11 Q. I don't think we've ever really pinned down what
12 the frequency of that is. Is that weekly, monthly?

13 A. It's not weekly, but it's --

14 Sometimes in some time frames it's more than
15 others, so it -- I mean it's not --

16 I'm not trying to tell you I do this on a --

17 Q. I understand. I'm trying to find out to the
18 extent which you do do that. I appreciate that it's
19 no longer an income-producing activity for you and
20 that it is fairly limited. I'm just trying to get a
21 handle on how limited it is. But let me --

22 A. Let me -- okay.

23 Q. -- switch to another facet of that.

24 Have any of those consultations, putting this
25 case aside, since you've been at Tulane University,

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1 touched on the subject of fraud and abuse in the
2 Medicaid program?

3 A. No.

4 Q. Have any of those consultations, in quotes,
5 dealt with the subject of fraud and abuse in
6 connection with an organization similar to Blue Cross
7 Blue Shield of Minnesota?

8 A. No.

9 Q. Now going back to the period of time between
10 1990 and 1995 or thereabouts when you were, as an
11 income-producing activity, acting as a consultant for
12 assisted living facilities, did any of those
13 consultations, taking aside this case if your
14 involvement was back that far, did any of those
15 consultations have anything to do with fraud and
16 abuse in the Medicaid program?

17 A. No.

18 Q. Or fraud and abuse in connection with an
19 organization similar to Blue Cross Blue Shield?

20 A. No.

21 Q. Now over that period of time between 1990 and
22 1995, or whenever it was that you stopped doing that
23 as an income-producing activity, approximately what
24 percentage of your professional time over that period
25 was devoted to this consulting practice?

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1 A. I'm sorry, I lost -- I lost you about halfway
2 through that question.

3 Q. All right. Would you be more comfortable if I
4 rephrased it, or would you like to read it off the
5 screen?

6 A. It doesn't matter.

7 Q. Let me try it again.

8 What I'm interested in is this period between
9 1990 and 1995 when you say you slowed down this
10 activity. I'm interested in knowing during that
11 period of time what percentage of your professional
12 time was devoted to your consulting practice with
13 respect to assisted living facilities.

14 A. Again, depending upon the project.

15 Q. I'm asking for a total for the period of time.
16 That's -- that's what I think is probably easier
17 since you told me it varied.

18 A. I'm not sure how to give you a percentage. I
19 can tell you that, for example, one of these took
20 almost a hundred percent of my time when it was
21 actually starting up, but most --

22 All of them didn't do that. Part of the time I
23 would -- I spent a hundred percent of my time, part
24 of the other ones I was -- it would take no more than
25 a month but not full time, and part of the time it

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1 would only take looking up rules and regulations,
2 other times it would be dealing with the state
3 agencies. But as far as giving you --

4 I'm not trying to be difficult, I'm just not
5 sure how to estimate it.

6 Q. Well are you saying that you're unable to
7 estimate the percentage of your professional time
8 devoted to this consulting practice during the period
9 of 1990 until the time you stopped doing it as an
10 income-producing activity?

11 A. I'm saying that it was never full time, and I'm
12 saying --

13 I'm saying that for the most part it was not 50
14 percent of my time, but at some times it was a
15 hundred percent.

16 Q. I'm just asking you for the scope of this five
17 years, or thereabouts, what percentage of those total
18 five years, taking your professional time only, you
19 devoted to this. Would it have been less than 10
20 percent?

21 A. I'm not sure --

22 I would need to go back and look at --

23 Q. All right. Can you tell me approximately what
24 percentage of your professional income during that
25 period of time came from this practice?

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1 MR. LINVILLE: Well objection. This again
2 is the consulting for assisted living?

3 MR. McKENNA: It is.

4 MR. LINVILLE: Not the others.

5 MR. McKENNA: Correct.

6 A. Less than 50 percent of my income came from
7 this, I'm sure of that. To give you a percentage as
8 five percent or something, 10 percent, I'm not sure.
9 But it was less than 50, I can tell you that much.
10 Q. I think that you may understand that that's a
11 frustrating answer for me.

12 Are you saying that it was somewhere between
13 five and 50 percent?

14 MR. LINVILLE: Objection.

15 A. Yes, it was somewhere between five and 50
16 percent. But I'm not trying to be difficult, I'm
17 trying to tell you I really --

18 Q. Well can you tell me --

19 Perhaps you can help me to understand. What is
20 the source of your difficulty in answering that
21 question? Are you not familiar with what your
22 sources of revenue were?

23 A. I'm just thinking back through. You're talking
24 about five years --

25 Q. That's right.

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1 A. -- and you're talking about something that was
2 not my full-time profession.

3 Q. That's right.

4 A. And so I'm trying to think back what all I did
5 over that amount of time. And I simply don't
6 remember, sitting here, an exact number.

7 Q. I'm not asking for an exact number, I'm asking
8 for your estimate of a percentage.

9 A. In order to answer you I will have to guess.

10 Q. I don't want you to guess. I'm asking for an
11 estimate. If you can't give me an estimate, just say
12 so.

13 A. I think I cannot give you a precise --

14 I guess an estimate, by definition, is not
15 precise.

16 Q. That's right.

17 A. But it is less than 50 percent, I'm quite -- I
18 know that. Was it more than five percent? Yes.

19 Q. And that's as close as you're able to come for
20 me, as far as an estimate is concerned, of the
21 percentage of your professional revenues that came
22 from this practice?

23 A. If you want a percentage, yes.

24 I'm not -- I'm not trying to claim this was a
25 big source of income. I just -- I'm -- I really and

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1 truly am not sure, sitting here.

2 Q. All right. You've indicated that there never
3 was a separate address for this consulting practice;
4 right?

5 A. That's correct.

6 Q. It had to be wherever your other activities
7 offered you an office space; is that true?

8 Did you do that out of your home or out of your
9 law-office practice or --

10 A. No, I did it out of my home and claimed it on my
11 regular income.

12 Q. All right. Did you ever have any staff that was
13 devoted to that practice?

14 A. No.

15 Q. And what did you do with respect to accounting
16 services, word processing, things like that?

17 A. I did it.

18 Q. Did you --

19 A. I mean it was not --

20 It was just figured in as part of my personal
21 income.

22 Q. Well I appreciate that. But in view of the fact
23 that you can't tell me what percentage of your income
24 it came out of, I'm trying to explore some of these
25 other things.

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1 You didn't have an accountant. Did you have
2 someone who managed your accounts receivable or your
3 billings in some way?

4 A. No.

5 Q. You did that yourself.

6 A. Uh-huh.

7 THE REPORTER: Your answer?

8 THE WITNESS: Yes. Sorry.

9 Q. And any word processing that was required for
10 that, you did that yourself as well?

11 A. Yes.

12 Q. So whenever it was necessary to prepare a report
13 or something like that for a client in that practice,
14 you would simply type it up yourself.

15 A. Correct.

16 Q. Now in the narrative paragraph accompanying that
17 description of the consulting practice, you speak
18 about a client which includes an owner of a former
19 public facility in Mississippi who plans to convert
20 the building to a retirement or personal-care home.
21 Now what kind of a former public facility was that?

22 A. It was a high school.

23 Q. And what were the subjects with respect to that
24 conversion that you were consulting about?

25 A. The rules and regulations, state rules and

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1 regulations that concerned assisted living. In the
2 state of Mississippi it's called personal care, so
3 personal-care homes. I met with various county
4 officials, state agencies, about permits and that
5 type of thing. I consulted in how to design the
6 inside of the building, convert from classrooms into
7 rooms, apartments, whatever you want to call them,
8 you know, the whole line -- the kitchen, how to
9 design the facility.

10 I went before the zoning board. It was a type
11 of thing where the facility had to be rezoned, and so
12 that was one of the things that I did. Helped in
13 determining whether there was a market. That's the
14 type of stuff that I did.

15 Q. I presume you weren't the only person
16 consulting. The architect or something like that
17 would have to consult as well?

18 A. There was an architect, correct.

19 Q. And who was this client?

20 A. This client's name is Travis Childers.

21 Q. Travis Childers?

22 A. Uh-huh.

23 Q. In what city in Mississippi is Mr. Childers?

24 A. Booneville. You would say Booneville.

25 Q. I understand it both ways.

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1 Approximately how much time did you spend in
2 that consultation?

3 A. For a -- for a while, all --

4 More than 50 percent of my time was devoted to
5 this during that startup phase, and then later on, I
6 mean I was through.

7 Q. All right. And approximately what were you paid
8 for this consultation?

9 A. Oh, gee. Seems that --

10 Q. I'm just looking for an approximation.

11 A. I know. Less than \$10,000 I think.

12 Q. And how did you happen to --

13 How did Mr. Childers happen to come to you? Did
14 you have a relationship with him as a business --
15 business or personal relationship with him before?

16 A. No. He lives in the county where I used to
17 live, where my parents still live, and in view of my
18 interest, he asked me -- and so he asked me to do it.

19 Q. Did that ever materialize into a functioning
20 retirement or personal-care home?

21 A. Yes. It's open now.

22 Q. Then you say that you worked for a group of
23 investors in Mississippi who intended to construct a
24 retirement or personal-care home. And what was the
25 nature of your consultation with that client?

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1 A. To look for an appropriate place. One is
2 location. Two -- that's number one. Number two, to
3 try to determine feasibility, and also work with an
4 architect to design a facility. And --

5 That's all.

6 Q. And approximately how much time did you spend on
7 that?

8 A. That's not something I did on a full-time
9 basis. That was -- what percent of --
10 Are you still asking me what percent of my time
11 during '90 to '95?

12 Q. No. I'm just asking you approximately how much
13 time you spent on that consultation, that particular
14 one.

15 A. That lasted over a period of several months
16 because the clients could never decide exactly what
17 they wanted to do, so it was sporadic. There would
18 be times that I would work with them for two or three
19 days, and then there would be times that I didn't do
20 anything for a while, and then there would be more to
21 do. So it was not --

22 That was not one that I would say required an
23 enormous amount of my time.

24 Q. Are you able to give me an estimate of how much
25 time?

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- 1 A. That one I --
- 2 Less than 10 percent of my time.
- 3 Q. And who was that client?
- 4 A. Well it was a group of people. I don't remember
- 5 if they had a name.
- 6 Q. Didn't you have a principal contact in that
- 7 group?
- 8 A. Yes. It was the architect. And as I sit here,
- 9 I can't remember his name. I'm sorry, it doesn't
- 10 come to mind.
- 11 Q. And where was this facility to be built?
- 12 A. In the general area around Jackson, Mississippi.
- 13 Q. And was it ever built?
- 14 A. No. They never did build it.
- 15 Q. And what were you paid, approximately, for that
- 16 consultation?
- 17 A. I don't remember, but that was not one -- I
- 18 don't -- let's see.
- 19 I don't remember, so it would be estimating.
- 20 Q. I'm asking you to estimate.
- 21 A. It would -- would be fairly low. I just don't
- 22 remember. Not much -- I mean that's not one that
- 23 brought in a lot of income.
- 24 Q. It was a smaller consultation than the first one
- 25 we discussed?

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- 1 A. Oh, yes. There's no -- there's no comparison.
- 2 Q. Then you list an investor in Jackson,
- 3 Mississippi, who plans to convert a personal estate
- 4 into a retirement home.
- 5 A. Right.
- 6 Q. And who was that person?
- 7 A. Person is a CPA in Jackson, Mississippi. And I
- 8 can't remember her name. She did not do it.
- 9 Q. How much time, approximately, did you spend on
- 10 that?
- 11 A. I don't remember a specific time. Again, this
- 12 is one where I worked with an architect in trying to
- 13 adapt -- adapt the house, would it work, and also in
- 14 trying to design a different one if it didn't. This
- 15 one again --
- 16 This went over several months, and it varied.
- 17 Q. Approximately what were you paid for that
- 18 consultation?
- 19 A. Actually in this one we finally reached an
- 20 agreement where, if I would do what would be needed
- 21 to -- to finish, to -- to actually do the project, I
- 22 would have been given an ownership interest.
- 23 Q. And you did your part of that but the project
- 24 never got finished; is that a fair statement?
- 25 A. It's a fair statement. I -- I began work full

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1 time at Tulane and just basically -- this --
2 We never went forward with this.
3 Q. So you were never paid anything for that
4 consultation.
5 A. That one I was not, correct.
6 Q. Then you referred to an individual in Georgia
7 who plans to construct a new personal-care home. Who
8 was that?
9 A. The name is Dora Weir.
10 Q. Could you spell that, please.
11 A. D-o-r-a, W-e-i-r.
12 Q. And where in Georgia is this person?
13 A. In Gwinett County.
14 Q. I think we need a spelling of Gwinett, if you
15 can help us.
16 A. G-w-i-n-e-t-t.
17 Q. And approximately how much --
18 What did you do for this person?
19 A. This is -- and I'll tell --
20 This is the person who asked that I help look at
21 facilities which were in the area, compare them.
22 Gather state regulations. Go into -- I went into
23 facilities in that area, looked at them as she
24 asked. This is a -- let's see. I looked at a
25 couple -- I think two, I don't remember -- at least

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1 one old school building as a possibility. Several
2 other buildings.

3 And again, this is an instance where, after
4 this -- after we began, I was also offered an
5 ownership interest if I would do this, and I agreed
6 to that. But same thing happened. I mean this --
7 both of these tailed off when I went to work on a
8 different -- different pursuit.

9 Q. You say they tailed off. Do you mean that you
10 were no longer able to devote time to them, or the
11 projects had sort of fizzled out by that time anyway?

12 A. I no longer had the time to devote, and
13 basically after that happened, they did not pursue
14 them.

15 Q. Okay. So this also was one in which you
16 ultimately were not paid anything.

17 A. That's correct.

18 Q. Now you referred to a group of investors in
19 Monroe, Louisiana, who are --

20 Did I say that right?

21 A. You did --

22 Well that's sometimes. You say Monroe.

23 Q. Oh.

24 A. It depends on --

25 Depends.

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1 Q. I was referring to Louisiana. I know that down
2 where you are, you say it differently than we do
3 here.

4 A group of investors in Monroe, Louisiana, who
5 are considering construction of a large retirement
6 home and personal-care facility. Did that group of
7 investors have a business name?

8 A. No.

9 Q. Who was your principal contact with them?

10 A. Cathy Tenore.

11 Q. And is that T-e-n-o-r-e?

12 A. Uh-huh.

13 Q. Yes?

14 A. Yes. I'm sorry.

15 Q. And where would Ms. Tenore be found?

16 A. In --

17 Q. Is she still in Monroe, Louisiana?

18 A. She lives close to Monroe. Monroe.

19 Q. If we were to try to find her there, do you know
20 the name of her husband?

21 A. No.

22 Q. Does she have a business, aside from being
23 involved with this group of investors?

24 A. Uh-huh. Yes, she does.

25 Q. And what's that?

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- 1 A. They have a pharmacy.
- 2 Q. I'm sorry?
- 3 A. A pharmacy. It's --
- 4 I don't know if it's hers or her husband's, they
- 5 may together own it, but there's a pharmacy.
- 6 Q. Do you remember the name of it?
- 7 A. No.
- 8 Q. Is it in Monroe?
- 9 A. No.
- 10 Q. What is --
- 11 What city is it in, if you know?
- 12 A. Tallula, I believe.
- 13 Q. As in Tallula Bankhead, or --
- 14 A. Right.
- 15 Q. Can you describe for me the work you did for
- 16 that group of investors?
- 17 A. Same type of thing I've just described before.
- 18 I spent time in looking at property, looking at
- 19 different possibilities for conversion. I spent time
- 20 with a CPA who ultimately was going to become an
- 21 owner, and after that, meeting with him and
- 22 discussing all this, he and Ms. Tenore were going to
- 23 be partners and again invited me to be an owner -- an
- 24 owner -- have an ownership interest in doing this.
- 25 And they are still looking at this as a possibility.

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1 Q. So you actually never billed or were paid
2 anything for that work.

3 A. No, because I agreed to the ownership interest.
4 And that's still an ongoing possibility.

5 Q. All right. So you still have some consultation
6 or involvement with that from time to time?

7 A. Yes. Just a possibility. It's no longer --
8 What we originally were going to do, we didn't.
9 But that's still not closed out, --

10 Q. So --

11 A. -- completely closed out.

12 Q. -- your participation in that, will that be
13 judged on what you've done so far, or do you expect
14 to be doing further work as a part of that group of
15 investors?

16 A. If they go forward, then I will work --
17 Yes, I will continue to help make -- develop the
18 project.

19 Q. In the discussion that we've just had, you
20 described to me only two clients who ever paid you a
21 fee for your consulting work. Would that be the sum
22 total of consulting fees that you actually received
23 for this work?

24 A. I have received some smaller fees or --
25 But nothing that I've listed here. Again, as I

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1 say, this was never my primary business. And when

2 I --

3 Yes, that's correct. Because ultimately I

4 decided it made more sense to accept an ownership

5 interest than a fee, if that was possible.

6 Q. And when you say there were some other smaller

7 fees, you're talking about a maximum of a couple of

8 hundred dollars, I presume?

9 A. Oh, yeah. Small stuff.

10 Q. All right. Let me give you a break from your

11 resume and ask you for some personal data.

12 How old are you?

13 A. Fifty.

14 Q. I used to be 50. It passes. It's not painful

15 very long.

16 And where were you born?

17 A. In Booneville, Mississippi.

18 Q. Are you married?

19 A. No.

20 Q. Have you been married?

21 A. Yes.

22 Q. And did --

23 Approximately when did that marriage end?

24 A. Divorce was final in 1983.

25 Q. And what was your --

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- 1 Only one marriage?
- 2 A. Yes.
- 3 Q. What was your husband's name?
- 4 A. Carl Bennett Overall.
- 5 Q. And what was Mr. Overall's profession or
- 6 occupation?
- 7 A. He was an aerospace engineer, and he is an
- 8 officer in the United States Air Force.
- 9 Q. Is he still in the Mississippi area?
- 10 A. No.
- 11 Q. Do you know where he is now?
- 12 A. He's in southern California.
- 13 Q. Where?
- 14 A. The Los Angeles area. I'm not sure which --
- 15 Q. Do you --
- 16 Do you have children?
- 17 A. Yes.
- 18 Q. And gender and ages, please.
- 19 A. One daughter, Jeri, age 25.
- 20 Q. And what does Jeri do?
- 21 A. Right now she is taking some college courses,
- 22 going back to school, and is helping to take care of
- 23 my father, who is -- has had a stroke.
- 24 Q. I see.
- 25 It appears that you began your professional

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1 career as a teacher; is that true?

2 A. Yes.

3 Q. Why don't we try to go through that in the order
4 in which it occurred.

5 Where did you go to college?

6 A. All of them?

7 Q. Well eventually all of them, yes, but let's
8 start with where you first matriculated.

9 A. Northeast Mississippi Community College, which
10 was called junior college at the time, in my home
11 town, which was Booneville, Mississippi.

12 Q. And were you able to go to school basically full
13 time until you received your degree, or were there
14 necessary interruptions for personal reasons during
15 that period?

16 A. No. I went to school full time.

17 Q. Some people -- okay.

18 So basically four years from the time you
19 started until you got your bachelor's degree; is that
20 true?

21 A. It was five years.

22 Q. In your CV you list Mississippi State University
23 as the place at which you got your bachelor of
24 science in educational psychology in 1970; is that
25 true?

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1 A. Correct.

2 Q. Is that place, plus the junior college you
3 described to us, are those the only places that you
4 attended in your undergraduate career?

5 A. Uh-huh, yes.

6 Q. And you list a master of education from
7 Mississippi State University in 1972.

8 Did you go directly on to studying for that
9 degree after achieving your bachelor's?

10 A. No.

11 Q. And what intervened in terms of professional or
12 personal activities that explain the interim?

13 A. I taught special education.

14 Q. Where was that?

15 A. West Point, Mississippi.

16 Q. For how long?

17 A. A year. And then I went back to get the
18 master's degree.

19 Q. And at the time you went back to get your
20 master's degree, what were your career goals at that
21 time?

22 A. To teach special education.

23 Q. All right.

24 A. Actually --

25 Well, to teach special education and work in

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1 psychometry -- psychometrics. Testing.

2 Q. Okay. So you taught a year, and then did it
3 take you just a year to achieve your master's degree?

4 A. I can't remember whether I began taking courses
5 while I was still teaching or not. But yes, it took
6 basically a year, perhaps, to finish in '72.

7 Q. And you list a fellowship in special education.
8 What did that mean in the context of your studies at
9 Mississippi State University?

10 A. It means that they, the school, paid me a
11 stipend to go. I was given a -- they passed --
12 My tuition was paid, and in addition to that I
13 received a monthly stipend while I was in school.

14 Q. And in either your studies for the bachelor of
15 science or your studies for the master of education,
16 did you achieve academic honors?

17 A. Yes.

18 Q. And what were they?

19 A. Dean's List, the President's List.

20 Q. All right. Did either of those programs
21 acknowledge academic excellence by recognition such
22 as magna cum laude or something like that?

23 A. Yes.

24 Q. And did you achieve any of those kinds of
25 distinctions?

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1 A. No, I don't think so.

2 Q. Then after your receiving your master of
3 education degree in 1972, tell me what you did
4 professionally.

5 A. I taught in the Newark, Ohio, Public School
6 District.

7 Q. And may I assume that you happened to be in Ohio
8 because of something to do with your husband's career
9 at that time?

10 A. You can assume that correctly, yes.

11 Q. And how long were you at Newark, Ohio?

12 A. From December of '72 until, I believe, September
13 of '77. I could be wrong about the month.

14 Q. Did you basically teach full time during that
15 time?

16 A. I taught full time part of the time. And I
17 tutored, for lack of a better word, children with
18 learning --

19 What I taught full time was educable mentally
20 retarded children, but I opted to drop back and --
21 into a -- I'll use "tutoring," for lack of a better
22 term, but it was a school system, children with
23 learning disabilities, because my daughter at that
24 time was only a few months old.

25 Q. All right. Approximately how much of that

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1 period of time that you just described did you devote
2 to full-time teaching? Was it half the -- half those
3 years or --

4 A. I think it was about a year and a half, but
5 that --

6 We moved there in January, so a year, year and a
7 half. I don't remember.

8 Q. And I note that during that period of time you
9 were involved with the Heart of Ohio Girl Scout
10 Council. Your daughter was too young to be in Girl
11 Scouts at that time. Did you have a long-standing
12 association with Girl Scouts?

13 A. Yes. I grew up in Girl Scouts.

14 Q. And you returned to that as an activity in 1983
15 to 1990 as a part of the Prairie Girl Scout Council
16 in Mississippi; correct?

17 A. Correct.

18 Q. And have there been other community service or
19 volunteer activities of note in your career? Those
20 are the only two you list in your resume.

21 A. Those are the main ones. I've done a little
22 work with United Way, I think, when I was in Ohio,
23 but nothing to compare to that.

24 Q. Okay. Then how did it happen that you found
25 your way into law school?

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1 Am I correct that that's the next academic
2 activity that you engaged in?

3 A. Correct.

4 Q. All right.

5 A. When I --

6 My husband and I separated in 1981, I guess it
7 was. I and my daughter returned from California back
8 to my home town, which is, again, Booneville,
9 Mississippi. When I got there, there -- I went to
10 work --

11 Q. That's Prentiss County?

12 A. That's Prentiss County.

13 -- at the chancery clerk's office. That's an
14 elected official in the county. It's a -- an office
15 that handles -- it's -- it's called the equity court
16 of -- of the state. It's the -- it's carved out of
17 the general jurisdiction, and primarily all that it
18 handles is probate, land records, adoption, that type
19 of thing. I went to work there, did a lot of work
20 with the land records, et cetera, worked with a lot
21 of attorneys who were in there doing title searches,
22 et cetera, et cetera, and eventually decided I would
23 like to try that myself.

24 Q. Many people in that situation look at those
25 lawyers out there and say, "Hey, I can do that." Is

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1 that the sort of process that went through your mind?

2 A. That was sort of the process that went through
3 my mind.

4 Q. All right. So where did you go to law school?

5 A. University of Mississippi.

6 Q. And were you able to go full time?

7 A. Yes.

8 Q. And how long did it take you to achieve your
9 degree there?

10 A. Let's see.

11 Q. You listed 1987 as the date of your juris doctor
12 degree.

13 A. It is, but December of '87 and not May, so an
14 extra -- from May to --

15 Three and a half years.

16 Q. And was the normal course of study three years
17 for that degree?

18 A. Uh-huh.

19 THE REPORTER: Your answer?

20 Q. Yes?

21 A. Yes. Sorry.

22 Q. And what was the interruption or the thing that
23 happened that caused you to extend it to three and a
24 half?

25 A. There was --

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1 There were several factors. One is I had a
2 daughter, and so I was doing mother things along with
3 going to school. And throughout that time I also
4 worked in the chancery clerk's office. And obviously
5 I didn't work full time when I was going to school, I
6 worked part time, and in summers full time. I can't
7 remember if I worked full time every summer or not,
8 but I worked. And I was working on the master's
9 degree in health-care administration also, so it took
10 me a little longer than normal.

11 Q. Do you know what your class rank was at the law
12 school?

13 A. No.

14 Q. What was it that led you to pursue
15 simultaneously the master's in health care and the
16 law degree?

17 A. I began the master's in health care first. I
18 had an interest for a very long time in health care;
19 I just never pursued it. And when I went to work at
20 the chancery clerk's office, I actually began taking
21 health courses, anatomy, physiology, micro, on my
22 lunch hour, and several people suggested that I look
23 into the health-care degree program, which was not
24 actually medical, but administration, which I
25 ultimately did. And I began taking courses on a

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1 part-time basis to begin with and was fairly far
2 along into the -- into the program, and took health
3 law, and decided that that also was an interest.
4 This was in conjunction with my everyday work with
5 lawyers every day, and I decided that I would like to
6 put all this together. And I wasn't going to get it
7 in the administration degree, and also figured out
8 later I wasn't going to get it either in the law
9 degree, so I needed to go ahead and get both.

10 Q. In pursuing both of them simultaneously, did you
11 have a particular career objective in mind?

12 A. Yes. I ultimately wanted to teach again in this
13 area.

14 Q. All right. And did you achieve any academic
15 honors with respect to your pursuit of the master of
16 science in health-care administration?

17 A. No. I mean I graduated 3.8 to 3.9, but as far
18 as --

19 That's all. No.

20 Q. In either of those courses of study, at the law
21 school or at the health-care administration program,
22 did you take any courses that focused upon fraud and
23 abuse in health-care systems, be it privately funded
24 or Medicaid-type programs?

25 A. Courses, no, not --

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1 No. The answer is no.

2 Q. Was there any portion of the curriculum that led
3 to your master's degree in health-care administration
4 that dealt with the subject of fraud and abuse in the
5 health-care system generally?

6 MR. LINVILLE: Objection.

7 A. You mean was the course --

8 Was there a course in fraud and abuse? Is that
9 what you're asking?

10 Q. No, I think you already said there weren't.

11 A. Okay.

12 Q. I'm asking if there was any part of the
13 curriculum that did deal with that subject.

14 MR. LINVILLE: Objection.

15 A. Not that I remember as anything in depth.

16 Q. Was there any part of the law-school curriculum,
17 taking aside general courses in criminal law, that
18 dealt with the subject of fraud and abuse in the
19 health-care system?

20 A. I think not.

21 Q. Would it be fair to say that up until 1988, when
22 you achieved your master's degree in health-care
23 administration, that you'd never been exposed
24 academically to anything that dealt with the subject
25 of fraud and abuse in the health-care system?

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1 A. No, not correct.

2 Q. Okay. And then what was it that you encountered
3 academically that did deal with that subject matter?

4 A. What I encountered was my own --

5 When I wrote my master's thesis, and it was not
6 on fraud and abuse, it was just in the research that
7 I was doing, I kept reading about this. I -- my --
8 my master's thesis was on an aspect of Medicare
9 reimbursement, but -- and the thesis was not on
10 fraud, but it -- during the course of that research I
11 began reading about it.

12 Q. Okay. Your focus at that time was upon the
13 Medicare system and not the Medicaid system; is that
14 true?

15 A. That's true.

16 Q. And your readings, nevertheless, led you, did
17 they, into the subject of Medicaid?

18 A. When you were talking about fraud and abuse,
19 quite often it discussed --

20 Q. All right. Would it be fair to say --

21 MR. LINVILLE: Counsel, just -- I didn't
22 mean to interrupt you, but it's going very quickly.
23 We're at about an hour, so when you come to a logical
24 point --

25 MR. McKENNA: Yes. Ms. Overall, it has

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1 been. To the extent that any traditions have arisen
2 in this deposition, it has been true that the witness
3 has been afforded to take a break, and the lawyers
4 for that matter, on an hourly basis. Would you like
5 to take a break now, or would you like to keep going,
6 bearing in mind that we need to have 12 hours over
7 the next day and a half with you?

8 THE WITNESS: I would like to get a drink
9 of water.

10 MR. McKENNA: Why don't we take a short
11 break, and try to discipline ourselves to something
12 less than 10 minutes and try to reconvene.

13 (Recess taken.)

14 BY MR. McKENNA:

15 Q. Ms. Overall, after achieving your degree, did
16 you study for and take the bar exam straightaway, or
17 did you wait until after you had completed your
18 master's degree work?

19 A. I graduated in December of '87, I took the bar
20 in July of '88, which was --

21 Yeah, I took it in July of '88.

22 Q. I should have asked before. It is necessary for
23 you to take a bar examination in Mississippi?

24 A. Yes, it is.

25 Q. And what's the duration of that bar examination?

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- 1 A. The duration?
- 2 Q. Yes.
- 3 A. How long did it take?
- 4 Q. Two days? One day?
- 5 A. It was two days, best I remember.
- 6 Q. Did you pass it the first time?
- 7 A. Yes, I did.
- 8 Q. And did you do any practice prior to getting --
- 9 any legal practice prior to getting your master's
- 10 degree in health-care administration?
- 11 A. I went to work for a law firm, yes, before I --
- 12 I didn't finish the master's degree in
- 13 health-care administration until December.
- 14 Q. And what was the law firm you went to work for?
- 15 A. Langston & Langston.
- 16 Q. And where were they?
- 17 A. That's in Booneville, Mississippi also.
- 18 Q. And had you had some prior association with this
- 19 law firm before graduating from law school?
- 20 A. Well I had seen them on a regular basis when I
- 21 worked in the chancery clerk's office.
- 22 Q. I guess what I meant to ask, and perhaps I
- 23 should have tried to be more direct about it, is how
- 24 did it come to be that you were hired by them? Were
- 25 they interviewing at the law school, or did you

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1 approach them, or what happened?

2 A. They approached me, but --

3 I mean, they didn't interview me at the law
4 school.

5 Q. Right.

6 Did you engage in the usual round of interviews
7 at the law school with firms that came seeking
8 associates?

9 A. No.

10 Q. Why not?

11 A. Because my daughter was in the 10th grade, and
12 one promise I made to her was that I would stay in
13 Booneville, Mississippi until she graduated from high
14 school, which I did.

15 Q. All right. Where is Booneville in --

16 First of all, where is the University of
17 Mississippi Law School?

18 A. Oxford.

19 Q. And where is that in relation to Booneville?

20 A. It's 75 to 80 miles west, or -- well it's not
21 due west, but it's in a westerly direction.

22 Q. So for your academic purposes you had to
23 commute, then, 75 or 80 miles several times per week;
24 correct?

25 A. Almost daily.

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1 Q. And at the same time you were working in the
2 chancery clerk's office in Booneville?

3 A. Right.

4 Q. Was that also almost daily, although, obviously,
5 not full time?

6 A. Wait, I lost -- was I commuting when I was
7 working in the --

8 I don't understand. I'm sorry, I lost --

9 Q. No. When you were going to law school and you
10 were commuting from Booneville, --

11 A. Yes.

12 Q. -- you were also working at the same time at the
13 chancery clerk's office in Booneville, Prentiss
14 County; correct?

15 A. Yes.

16 Q. And did you work some every day in the chancery
17 clerk's office?

18 A. No, not when I was in full time school.

19 Q. Were you in the day program or --

20 A. Yes.

21 Q. -- in the night program?

22 A. I was -- I was in the day program, so I did a
23 lot of work for the chancery in very late hours and
24 on weekends.

25 Q. All right. What kinds of things did you do as

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1 an associate with Langston & Langston?

2 A. I did a lot of land work because I had done -- I
3 had done title work, I did domestic work, I handled
4 quite a few divorces, that type of thing. General
5 practice is what the -- what the law firm is, and so
6 I did some contract stuff, I did the general practice
7 of law.

8 Q. And how many people were there at Langston &
9 Langston, lawyers?

10 A. How many attorneys?

11 Q. Yes.

12 A. Well it was actually Langston, Langston, Michael
13 & Bowen, is the name of the law firm. Used to be
14 Langston & Langston. So that's four. When I began
15 there there were those four partners; two more --
16 Six attorneys at the time I started.

17 Q. During --

18 How long were you at Langston & Langston? Your
19 resume lists the general practice 1988 to 1990. Is
20 that what you're referring to as the Booneville -- or
21 the Langston & Langston practice?

22 A. Yes.

23 Q. Were you with them for the whole two years?

24 A. I worked --

25 No. Initially when I first graduated from law

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1 school I worked for a little while with another firm,
2 and it was -- completely losing --

3 Cunningham, Smith & Ferrel is the name of the
4 firm.

5 Q. So they were the people you worked with first
6 out of law school.

7 A. They --

8 Yes, they actually were.

9 Q. Cunningham, Smith --

10 A. Smith & Ferrel.

11 Q. And was that a firm of about the same size, half
12 a dozen lawyers or so?

13 A. It was smaller.

14 Q. Okay. Just the three of them?

15 A. The three of them and another attorney named
16 Duncan Lott.

17 Q. Duncan Lott.

18 A. The two --

19 I'm sorry. Two of them. Cunningham is not
20 alive.

21 Q. I see. Smith and Ferrel and then somebody named
22 Duncan Lott. Is he related to the other big-time
23 Lott from Mississippi?

24 A. You know, I don't know.

25 Q. Okay.

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- 1 A. He did not --
- 2 Q. And that's Booneville also?
- 3 A. Yes.
- 4 Q. You started to say something. He what?
- 5 A. Duncan Lott was not a member of that firm. They
- 6 shared a building.
- 7 Q. I see.
- 8 A. And they worked there, both of them.
- 9 Q. And what did you do with Cunningham, Smith &
- 10 Ferrel?
- 11 A. The same type. General practice.
- 12 Q. And how long were you there?
- 13 A. Perhaps until --
- 14 I'm not sure of the exact month, but perhaps
- 15 June or July, I think. July probably. After I took
- 16 the --
- 17 I was there when I took the bar.
- 18 Q. And why did you leave there?
- 19 A. Because I had a better offer.
- 20 Q. So we're talking about 1988; right?
- 21 A. Yes.
- 22 Q. But your departure from there was voluntary?
- 23 A. Oh, yes.
- 24 Q. And you started right away at Langston &
- 25 Langston then. There wasn't a hiatus between your --

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- 1 A. No.
- 2 Q. -- tenure at the two places?
- 3 A. No. I --
- 4 Q. Did you practice full time at Cunningham, Smith
- 5 & Ferrel at the same time you were studying for the
- 6 bar exam?
- 7 A. With the exception of the -- of --
- 8 I took two weeks or -- I don't remember the
- 9 exact amount of time, to study the bar.
- 10 Q. All right. And when you started at Langston &
- 11 Langston, did you practice full time with them?
- 12 A. Yes.
- 13 Q. And did that continue up through 1990?
- 14 A. No, not --
- 15 Q. How long were you with Langston & Langston?
- 16 A. Well I was there until '90.
- 17 Q. I see.
- 18 A. But I began teaching business law at the
- 19 community college.
- 20 Q. Okay. How much of your -- try to --
- 21 Perhaps you can explain to me how that affected
- 22 your practice. Did you cut back to half time or
- 23 what? What happened?
- 24 A. I didn't then. I taught --
- 25 When I began teaching, I taught the business law

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1 course. That was not -- I was still practicing --

2 I mean most of my time was practicing. As a
3 result of teaching the business law course, I was
4 asked to take over the paralegal program at that
5 community college, which I did, and when I did that,
6 I cut back on the practice of law. I still was
7 practicing, but not full time. I was -- I was
8 working about 24 hours a day during that period
9 between the two, but --

10 Q. Well help me again with an understanding of what
11 proportion of your professional life was each.
12 You've listed overlapping periods of time here. How
13 long into 1988 was it before you began teaching at
14 the paralegal program at Northeast Mississippi
15 Community College?

16 A. In -- in the fall of 1988 I taught business law,
17 not in the community -- not in the paralegal program.

18 Q. All right. And when you started in the fall not
19 in the paralegal program, were you still practicing
20 full time?

21 A. Basically, yes.

22 Q. And when did you cut back your practice?

23 A. After I began --

24 I cut back, I -- I suppose it was in the fall of
25 '90.

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- 1 Q. In the fall of '90?
- 2 A. Uh-huh.
- 3 Q. So basically --
- 4 A. No. I -- I'm sorry. '89.
- 5 Q. '89. So then you --
- 6 If I understand, what you're saying is that
- 7 although you took on some additional responsibilities
- 8 for teaching in the fall of '88, --
- 9 A. Uh-huh.
- 10 Q. -- that essentially you practiced full time from
- 11 the summer of '88 through the fall of '89; correct?
- 12 A. It was somewhere during -- I don't remember the
- 13 month. It was somewhere during the fall of '89, I
- 14 believe, that I decided I couldn't continue to try to
- 15 do both of these full-time jobs --
- 16 Q. Okay.
- 17 A. -- and I cut back.
- 18 Q. All right. Was the first teaching that you did
- 19 at night?
- 20 A. No.
- 21 Q. So you would take time out from the business day
- 22 and go down and teach, and then make that time up at
- 23 night or on weekends?
- 24 A. Yes.
- 25 Q. So in the fall of '89 did you have an

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1 understanding with the folks at Langston & Langston
2 as to what percentage of your time you were going to
3 devote to the practice there?

4 A. No. It was not discussed like a percentage of
5 time, it was how much work I could get done, which
6 they allowed me to do whenever I could get it done.

7 Q. All right.

8 A. And so I still did a lot of after-hours, but it
9 wasn't -- but I had cut back.

10 Q. Well when you practiced at Langston & Langston,
11 were you paid a salary?

12 A. Yes.

13 Q. And they didn't continue to pay that full salary
14 after the fall of '89; did they?

15 A. No, that's correct.

16 Q. And --

17 A. We reached --

18 Q. -- what was the compensation arrangement after
19 that?

20 A. I asked to be paid on the work that I did as
21 opposed to a salary, and I was, but I don't remember
22 what the pay was.

23 Q. It wasn't an hourly basis, but it was some sort
24 of a fee attendant upon a particular case or a
25 particular kind of case, so much for a title opinion,

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1 so much for a divorce, so much -- that sort of thing?

2 A. I believe that's the arrangement we reached.

3 Q. Okay.

4 A. I was no longer on salary, that's correct.

5 Q. Did the arrangement change over time?

6 I'm curious as to why you can't remember what
7 your -- what your compensation arrangement was.

8 A. What do you mean did it change over time?

9 Q. Well I mean we're talking here about a period
10 that is only seven years ago, and you're telling me
11 you don't remember the compensation arrangement, and
12 I'm trying to understand why that would be so.

13 MR. LINVILLE: Objection. Is there a
14 question?

15 MR. McKENNA: Yes.

16 Q. I'm asking if the situation of the compensation
17 arrangement changed during that period of time.

18 A. Not that I remember, no.

19 Q. Is there something you can tell me that would
20 help me to understand why you can't remember what
21 your compensation arrangement was?

22 A. I don't remember the fee, but basically I was
23 paid not as a full-time attorney, but for the work
24 that I did.

25 Q. Okay. Then during the period of time from the

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1 fall of '89 till -- when --

2 When did you finally depart from working at

3 Langston & Langston?

4 A. Well I left Booneville, Mississippi to go to --

5 to Jackson in June of 1990.

6 Q. All right.

7 A. And so I don't remember if I left -- if I

8 waited -- if I worked right through until the time I

9 left or if I --

10 I think I quit before that in order to get ready

11 to move. But that's the general timeframe.

12 Q. And the arrangement stayed basically the same

13 with Langston until the time that you quit in order

14 to prepare to move; is that true?

15 A. Yes.

16 Q. And did you leave the practice with Langston &

17 Langston voluntarily?

18 A. Yes, I did.

19 Q. Now during --

20 Taking the period of time from the fall of 1989

21 until the end of the academic year in 1990, what were

22 you paid as the director and instructor of the

23 paralegal program and an instructor in business law

24 at Northeast Mississippi Community College?

25 A. I don't remember the exact number. Somewhere in

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1 the range of 25.

2 Q. All right.

3 A. I don't remember, but --

4 Q. Sure.

5 A. -- somewhere, I --

6 More than 20 thousand and less than 30, I think.

7 Q. Okay. And what was your approximate

8 compensation during the same period of time from your

9 law practice?

10 A. I don't remember a total compensation because it

11 came in as I did work. It wasn't like a salary, so I

12 don't remember what --

13 I don't remember.

14 Q. You can't approximate for me whether you were

15 able to supplement your income by a third or a half

16 or any such estimate?

17 A. I really don't remember.

18 Q. I can appreciate you can't remember exactly.

19 I'm asking if you are able to make an estimate for

20 me.

21 A. I do not remember what my total income was for

22 that year. I'd have to guess.

23 Q. I don't want you to guess, I'm asking if you can

24 make an estimate, and if you're saying to me that you

25 can't make an estimate, fine, we'll move on to some

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1 other subject.

2 A. Okay. I really don't remember.

3 Q. I'm not asking you whether you remember, because
4 when you say you remember, it makes me think that
5 you're treating my question as if it were a question
6 for a precise number. I'm asking you for an estimate
7 of the percentage of your professional income that
8 came from your law practice.

9 A. I need a pencil.

10 MR. McKENNA: Counsel, you want me to give
11 her a pencil or --

12 MR. LINVILLE: I'll be glad to share my
13 pencil.

14 (Pen and several pieces of paper handed
15 to the witness.)

16 A. I'd have to remember what the gross income was,
17 and I don't remember it.

18 Q. Not even approximately; is that what you're
19 saying?

20 A. I would be guessing --

21 Q. No.

22 A. -- to answer your question.

23 Q. I'm not asking for a guess. I'm asking for an
24 approximation or an estimate, and you're saying to me
25 that you can't do that; is that right?

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1 A. That's correct.

2 Q. Okay. Now during the period --

3 I take it that the latest that you could
4 possibly have practiced at Langston & Langston was
5 July of 1990?

6 A. No. Latest was June of 1990.

7 Q. All right. Now up until that time did any part
8 of your practice of law concern itself with fraud and
9 abuse in the health-care delivery system in any way?

10 A. No.

11 Q. And did you have any occasion to teach anything
12 about fraud and abuse in the health-care delivery
13 system in your work at Northeast Mississippi
14 Community College?

15 A. No.

16 Q. And your purpose for leaving Booneville to go to
17 Jackson was to do what?

18 A. To go to work at the Attorney General's office.

19 Q. All right. Now what is it that attracted you or
20 interested you in the Attorney General's office?

21 A. An opening in a job that was -- would allow me
22 to use both my law degree and my health-care degree,
23 which is what I wanted to do when I graduated from
24 law school.

25 Q. And that was specifically the Medicaid Fraud

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- 1 Control Unit.
- 2 A. It was.
- 3 Q. And your daughter, I take it, graduated in the
- 4 spring of 1990 from high school?
- 5 A. You're correct.
- 6 Q. Did she then go on to college when you went to
- 7 Jackson?
- 8 A. She did.
- 9 Q. Where did she go?
- 10 A. University of Mississippi.
- 11 Q. Now is Oxford close to Jackson?
- 12 A. No. Well --
- 13 No.
- 14 Q. Was she able to continue to live at home while
- 15 you were --
- 16 A. Oh, no.
- 17 Q. How did it happen that you went to the Attorney
- 18 General's office? Were they recruiting, or did you
- 19 apply for the job, or what happened?
- 20 A. I applied for a job.
- 21 Q. Did you know somebody at the Mississippi
- 22 Attorney General's office?
- 23 A. Yes.
- 24 Q. Who was that?
- 25 A. There were some people with whom I had gone to

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1 law school. Anita Clinton is one name.

2 I'm drawing blanks.

3 John Henry is another name. So yes, I knew some
4 people there.

5 Q. Your association with those folks, did that play
6 a part in your getting this job?

7 A. To the extent that they knew me and could
8 recommend that they were familiar with my work.

9 Q. Okay. Now earlier you had said that you applied
10 for a job. Do I --

11 Should I infer from that that you did not apply
12 for specifically a position in the Medicaid Fraud
13 Control Unit?

14 A. As I sit here I cannot remember, when I first
15 applied, if that's the job I applied for
16 specifically. I did specifically apply for it. I'm
17 not sure that the original application was for that
18 specific job.

19 Q. All right.

20 A. But -- okay.

21 Q. Sorry. You wanted to add something?

22 A. No.

23 Q. So it's possible that you simply made an
24 application for any attorney's position in the
25 Mississippi Attorney General's office initially.

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1 A. I cannot remember. I did specifically apply for
2 the job in the Fraud Control Unit when I found out
3 about it.

4 Q. But that may have been after you had already
5 applied generally for employment there; is that what
6 you're saying?

7 A. I honestly don't remember.

8 Q. And at that time was the Mississippi Attorney
9 General's office hiring based upon the discretion of
10 the Attorney General, or was it a Civil Service kind
11 of arrangement?

12 A. You're hired by the Attorney General.

13 Q. So you didn't take an examination or anything
14 like that. It was a matter of submitting an
15 application and a resume.

16 A. Correct. And an interview.

17 Q. And did you consider yourself as serving at
18 the -- at the pleasure or at the discretion of the
19 Attorney General while you were there?

20 A. He was my boss. Yes.

21 Q. Well I think you understand after your tenure at
22 the Attorney General's office that around the country
23 some attorney general offices have Civil Service
24 arrangements whereby people have an expectation in
25 the continuity of their job based upon good behavior

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1 and good performance, a Civil Service kind of
2 arrangement, whereas others are arrangements where
3 all attorneys serve at the pleasure or at the whim,
4 really, of the attorney general. I'm trying to find
5 out from you which of those things is true for the
6 Mississippi Attorney General's office.

7 A. We were not considered civil servants.

8 Q. So that you understood that if the Attorney
9 General wanted you to be gone for some reason, that
10 he or she could accomplish that simply by dictating
11 it.

12 A. Yes. He was the person who hired or fired.

13 Q. All right. Was the first assignment that you
14 had in the Attorney General's office, then, with the
15 Medicaid Fraud Control Unit?

16 A. Yes. That's the job I interviewed for when I
17 interviewed.

18 Q. All right. Do you know how long that unit had
19 been established at that time?

20 A. In the '80s I believe it began.

21 Q. So it was a functioning unit, not a start-up
22 thing when you went there.

23 A. Correct.

24 Q. And how many people were in that unit,
25 professional and support staff?

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- 1 A. I would have to go back and count them, but I'm
2 saying in the vicinity of a dozen.
- 3 Q. And what distribution? How many attorneys, how
4 many support staff?
- 5 A. There were only two attorneys, and I was one of
6 those.
- 7 Q. All right. Was one of you considered to be the
8 boss or the director of the unit?
- 9 A. No. Neither attorney was the director of the
10 unit.
- 11 Q. Okay. Did both of you then report to the same
12 person in the hierarchy of the Attorney General's
13 office?
- 14 A. Yes.
- 15 Q. And who was the other attorney when you started?
- 16 A. Kenny O'Neal. Kenneth O'Neal.
- 17 Q. And who was the person to whom you reported,
18 both of you?
- 19 A. Tommy Dorsey.
- 20 Q. Tommy Dorsey? Okay.
- 21 And what was Mr. Dorsey's position or title?
- 22 A. He was the head of the Medicaid Fraud Control
23 Unit.
- 24 Q. But he was not an attorney?
- 25 A. Correct.

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1 Q. What was his occupation or profession?

2 A. He had been, as I remember, in -- in service in
3 other governmental agencies in the state of
4 Mississippi prior to coming there, but I don't
5 remember which ones.

6 Q. You were, however, officially a part of the
7 Attorney General's office; correct?

8 A. Correct.

9 Q. What was the overall size of the Attorney
10 General's office at that time in terms of numbers of
11 attorneys, approximately?

12 A. Gee, I don't --

13 I'm not sure. We had AGs assigned to every
14 different agency in the -- in the -- in the state
15 basically. I don't remember.

16 Q. Well again I'm not asking for a precise number.
17 Can you estimate for me how many there were?

18 A. No. It would be a guess.

19 Q. I don't want you to guess.

20 Was the Attorney General's office housed in such
21 a way that most of the attorneys who were part of the
22 AG's office were in the same building?

23 A. There was a main building which housed very many
24 of the staff of the AG's office. However, there were
25 many of us who were not housed there. I was not.

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1 Q. All right. Were all of the parts of the
2 Medicaid Fraud Control Unit housed in one location?

3 A. Yes.

4 Q. And where was that organizationally? I don't
5 need to know the address. Were you with the Welfare
6 Department, or where?

7 MR. LINVILLE: Object to the form.

8 A. I don't understand your question.

9 Q. Well I'll see if I can't make it understandable.
10 You were not housed with the rest of the
11 Attorney General -- or with many others in the
12 Attorney General's office but apparently at some
13 location separate from the bulk of AG personnel;
14 correct?

15 A. Correct.

16 Q. And were you housed in a place that was nearby
17 to some other state agency?

18 A. We were housed --

19 We were housed in an office building that rented
20 space to the AG's office. There were other
21 businesses in there, but they weren't necessarily
22 state agencies. I mean we rented space.

23 Q. Were there other components of the Attorney
24 General's office in that building?

25 A. For a while I believe that the consumer section

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1 was also housed there.

2 Q. Okay. Anybody else that you can recall?

3 A. No. Not offhand, no.

4 Q. Were you considered to be part of the criminal
5 division of the Attorney General's office
6 organizationally?

7 A. Well we did both criminal and civil, so --

8 Q. No. My question is every government
9 organization has got its own tree of authority and
10 lines of responsibility and reporting and so forth,
11 and I'm trying to understand where in the
12 organization of the Attorney General's office your
13 Medicaid Fraud Control Unit fit. Did you --

14 Was the line of reporting through your boss
15 directly to the Attorney General, or --

16 A. Yes.

17 Q. All right. So there was no --

18 You were not organizationally part of the
19 criminal division.

20 A. As I understand it, the head of the fraud unit
21 reported directly to the Attorney General. There
22 were two -- there were two people below the Attorney
23 General on the chart, but they were -- I don't know
24 what -- I don't remember what the titles were.

25 Q. Okay. And you say there were approximately a

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1 dozen people. I take it that there were a number of
2 investigators and then some clerical staff; is that
3 right?

4 A. That's correct.

5 Q. How many investigators, do you remember?

6 A. There were approximately a half a dozen.

7 Q. And did they have specialties with respect to
8 their occupations? Were there people who were
9 nurses, pharmacists, doctors, among the
10 investigators?

11 A. No. Their backgrounds varied, but we do not
12 have a pharmacist. That we didn't --

13 They were investigators, --

14 Q. Okay.

15 A. -- but not with a -- most of them not with a
16 clinical background.

17 Q. Well were there any of them that had a
18 background other than investigator?

19 A. We had an accountant, but he actually is an
20 accountant.

21 Q. All right.

22 A. I believe that some of the others came to the
23 fraud unit from having worked in different areas of
24 the state government. I don't remember whether it
25 was the AG's office, but like in narcotics

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1 investigation and control.

2 Q. Are you saying primarily from a law-enforcement-
3 related background?

4 A. Some did come from law-enforcement related,
5 that's correct. I don't remember the backgrounds of
6 all of them.

7 Q. Well do you remember the backgrounds of anybody
8 who had a background in health care?

9 A. Clinical background, is that what you mean?

10 Q. Any kind of a background in health care.

11 A. I don't remember anyone having a background in
12 health care.

13 Q. If your unit needed to consult with somebody
14 about medical issues, who would you talk to? Did you
15 have a paid consultant, or was there someone in state
16 government staff that you talked to?

17 A. Yes, sometimes we talked to state government
18 staff.

19 Trying to remember where they were. Quite often
20 there would be issues that we would discuss with, for
21 example, the Licensure and Certification Office of
22 the State Department. There's a Board of Pharmacy.
23 There is --

24 Depending upon what the subject matter was,
25 there were different people with whom we discussed

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1 things.

2 Q. Do you remember some of the medical issues that
3 you consulted with people about, you personally?

4 A. Primarily I remember discussions with Licensure
5 and Certification. Some of that had to do with
6 nursing homes.

7 Q. Are you telling me that you don't recall any
8 instances in which you consulted with respect to
9 medical subjects with any of these people?

10 MR. LINVILLE: Object.

11 A. I really don't recall. Patient care, for
12 example, was not something that --

13 I really don't recall.

14 Q. Now you list in your curriculum vitae that you
15 spent some of your time working with respect to the
16 state Vulnerable Adults Act, so I take it that those
17 of you who were assigned to the Medicaid Fraud Unit
18 did not devote full time to Medicaid fraud and abuse
19 issues; is that true?

20 MR. LINVILLE: Objection.

21 A. You're correct in assuming that the Fraud
22 Control Unit was responsible both for Medicaid fraud
23 and abuse and for cases of abuse of vulnerable
24 adults.

25 Q. And at the time that you were working there, the

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1 state of Mississippi Vulnerable Adults Act was new
2 legislation; was it not?

3 A. Yes.

4 Q. And I take it that that meant that there was a
5 substantial amount of work necessary on the part of
6 you and your colleagues to be of assistance to the
7 health-care industry and to others in state
8 government and local government with respect to the
9 meaning and implications of the Vulnerable Adult Act;
10 is that true?

11 A. Yes. We were involved in the implementation of
12 the Vulnerable Adults Act.

13 Q. And you list in your resume that you -- part of
14 what you did there was to conduct in-service training
15 for nursing facilities and state ombudsmen regarding
16 compliance with the state Vulnerable Adults Act;
17 right?

18 A. Right.

19 Q. Can you estimate for me the amount of time that
20 you spent working on fraud and abuse issues as
21 opposed to the amount of time you spent working on
22 the state Vulnerable Adults Act during the time that
23 you were working at the Mississippi Attorney
24 General's office?

25 A. In the initial startup, at the beginning of the

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1 initial startup of the Vulnerable Adults seminars, et
2 cetera, that are listed, there was obviously time
3 there devoted to giving the seminars, although they
4 were usually like a day or half a day. But I was
5 working on investigation of -- more investigation of
6 fraud and abuse when the Vulnerable Adults Act began
7 because that was an educational period, as you just
8 mentioned. Gradually we moved to more investigation
9 of the Vulnerable Adults Act cases. So I don't know
10 that I can divide my time into which -- which --
11 I mean it was doing both at the same time,
12 that's correct.

13 Q. And perhaps -- is there something about my
14 question that --

15 I'm asking you to tell me approximately how much
16 of your time you devoted to that. Is there --

17 Help me to understand why you cannot remember,
18 seven years ago, how much of your time you devoted to
19 this as opposed to Medicaid fraud. Is there --

20 MR. LINVILLE: Objection.

21 Q. Have I --

22 Have I phrased my question awkwardly or
23 something?

24 A. No.

25 Q. You just can't remember?

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1 A. I am trying to think through what I was doing.

2 Q. Uh-huh.

3 A. I was doing this simultaneously.

4 Q. Right.

5 A. I don't know that I can say, well, this -- this
6 much was there and this much was here.

7 Q. I'm asking for a rough approximation, an
8 estimate.

9 MR. LINVILLE: Objection.

10 A. I don't know that I can give you a valid
11 estimate. It was ongoing all at the same time.

12 Q. Would it be fair to say that essentially there
13 were two areas of responsibility that you focused
14 upon: on the one hand, fraud and abuse issues under
15 the mission of the Medicaid Fraud Control Unit having
16 to do with the Medicaid program; and on the other
17 hand, assisting with the implementation and the
18 education associated with that regarding the
19 Vulnerable Adult program, just those two things
20 basically?

21 MR. LINVILLE: Objection.

22 A. Right.

23 Q. Did you start in July of 1990 at the Medicaid
24 Fraud Control Unit?

25 A. Either started the end of June or the beginning

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- 1 of July.
- 2 Q. And --
- 3 A. Probably was the beginning of July.
- 4 Q. And when in 1991 did you leave that unit?
- 5 A. August, I think.
- 6 Q. Did you leave voluntarily?
- 7 A. Yes.
- 8 Q. During the time that you'd been there, did you
- 9 receive any promotions or raises in pay?
- 10 A. I think not.
- 11 Q. And were you evaluated by your supervisors
- 12 during that period of time?
- 13 A. I was evaluated. I don't remember if it was a
- 14 written evaluation, but yes.
- 15 Q. And was the evaluation largely an affirmative
- 16 one?
- 17 A. Yes.
- 18 Q. Am I correct, from your description of your
- 19 practice in Prentiss County, that that did not
- 20 involve actual jury trials?
- 21 A. No, you're not correct.
- 22 Q. All right. What kind of cases were you involved
- 23 in a jury trial on in Prentiss County?
- 24 A. Criminal.
- 25 Q. All right. Now that's an aspect of your

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1 practice that we didn't discuss, that I understood

2 that you did mostly real estate and divorce work.

3 What was the criminal case that you handled?

4 A. A lot of the work that the Langston law firm

5 does is criminal defense. I did not handle a case as

6 a lead attorney, a criminal case, but I did a lot of

7 the research and workup.

8 Q. Did you actually conduct -- become involved in a

9 trial as what we would say second chair in the

10 courtroom while it was happening?

11 A. I was in the courtroom. I mean I don't claim to

12 be a trial attorney.

13 Q. No.

14 A. I never have.

15 Q. I'm just asking what you did do. Were you at

16 counsel table during these trials?

17 A. Some of them, yes.

18 Q. Did you examine any witnesses?

19 A. No.

20 Q. Make any presentations to the jury at all by way

21 of opening statement, final argument?

22 A. No.

23 Q. What kind of cases?

24 A. Criminal defense.

25 Q. How many?

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1 A. Oh, I don't remember. They were --

2 I don't remember.

3 Q. Can you estimate for me?

4 A. Of how many times I've sat in the courtroom?

5 Q. No, that's not what I asked you.

6 A. How many cases did I assist on in criminal
7 defense, is that the question?

8 Q. How many times were you at counsel table in a
9 case in front of a jury?

10 MR. LINVILLE: Objection.

11 A. I have no idea.

12 Q. Can't even make an estimate for me.

13 A. To ask me how many times I sat at a counsel
14 table, no.

15 Q. Well number of cases then. Does that help?

16 A. I was doing research on a broad spectrum of
17 cases. I don't remember which -- how many were under
18 which topic.

19 Q. Would you ever have been listed as counsel of
20 record for the defense in any of those criminal
21 cases?

22 A. No, because I was only assisting with the --
23 with the research and the workup of the file.

24 Q. And you never made a presentation to the jury or
25 questioned witnesses; is that right?

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1 A. That's correct.

2 MR. LINVILLE: Objection.

3 Q. Did you appear in a fashion of arguing motions
4 in front of the court in these criminal cases?

5 A. I argued motions before a judge. I don't
6 believe they were criminal.

7 Q. Were there any other occasions when you were
8 involved in a jury trial, aside from these criminal
9 cases, the number of which you do not recall?

10 A. Some of the jury trials were civil cases.

11 Q. And approximately how many civil cases were you
12 involved with in front of juries?

13 A. I don't remember how many was civil and how many
14 was criminal. And again, I was not the attorney
15 arguing the case. I was at -- in the courtroom as
16 part of the counsel, but I did not argue.

17 Q. Would it be fair to say that at no time in
18 connection with a jury trial have you ever in
19 Prentiss County questioned a witness, argued a motion
20 during the trial to the judge, or made a presentation
21 to the jury?

22 MR. LINVILLE: Object to the form.

23 A. I don't know that the answer is never.

24 Q. Well what is the answer?

25 A. The answer is infrequently, yes.

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1 Q. Okay. Tell me an example of a case in which you
2 did one or more of those things.

3 A. You're talking about arguing -- all those
4 things, including arguing before a judge?

5 Q. Any one --

6 Well I'm talking about as the question earlier
7 stated. I'm talking about occasions in which you
8 questioned a witness, or argued a motion to the judge
9 in the middle of a trial, or made a presentation to
10 the jury in any case, civil or criminal.

11 A. I can't remember. When I argued before a judge,
12 I can't tell you that it was a jury trial. I cannot
13 remember that. I mean I think that there was one
14 time only, but I can't tell you that that was in the
15 course of a jury trial.

16 Q. Are you able to recall any instance in which you
17 examined a witness in front of a jury?

18 MR. LINVILLE: Object to the form.

19 A. That I examined a witness in front of a jury.

20 Q. Yes.

21 A. No.

22 Q. Are you able to recall any instance in which you
23 addressed a jury in the course of a trial?

24 MR. LINVILLE: Object to the form,
25 repetitive.

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1 A. No.

2 Q. Are you able to recall any instance in which you
3 supervised an investigation in a civil or criminal
4 case?

5 MR. LINVILLE: We're back here in
6 Mississippi?

7 A. Where are you talking?

8 Q. Back in Prentiss County.

9 A. That I supervised the investigation; is that
10 what you said? I'm sorry.

11 Q. Yes, it is.

12 A. Well yes, there are a lot of cases that I
13 instructed the investigations of.

14 Q. Okay. Give me an example.

15 A. Numerous disputes over land.

16 Q. Okay. Did any of those have to do with
17 litigation?

18 A. Oh, yes.

19 Q. Preparation for trial?

20 A. Yes.

21 Q. Okay. Anything else?

22 A. Quite a few domestic cases, everything from
23 divorce to child custody, protective orders, that
24 type of thing.

25 Q. Okay. In Mississippi at that time, were

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1 divorces a matter for jury trial?

2 A. No.

3 Q. How about these other kinds of domestic disputes
4 that you're discussing, any of those that were
5 triable by juries?

6 A. No. Those were primarily chancery cases.

7 Q. How about the land disputes, were they triable
8 by juries?

9 A. No, usually not. That would be chancery.

10 Q. Is it fair to say in the land disputes, most of
11 your supervision of investigation had to do with
12 surveyors and the like?

13 A. It's fair to say that I dealt with surveyors.
14 It's not fair to say that most of it was done with
15 surveys.

16 Q. Would you give me an example of a land dispute
17 in which you supervised the investigation?

18 A. I supervised the investigations of several land-
19 line disputes, for example, or disputes of ownership
20 over -- over property, some having to do with estates
21 of a deceased, quite often --

22 Well obviously it wouldn't be a dispute if
23 people weren't arguing over it. Part of it entailed
24 looking at the land, yes. Part of it entailed
25 dealing with surveyors, yes. Looking at land lines,

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1 yes. Part of it entailed dealing with property law
2 to the extent of who has a right by descent and
3 distribution, that type of thing, and lawsuits filed
4 against each other for ownership.

5 Q. All right. I understand that those --

6 Thank you for that generic description. I want
7 you to give me an example of a case in which you
8 supervised the investigation involving a land
9 dispute.

10 A. Okay. A land dispute between members of a
11 family upon which -- the land upon which had a
12 cemetery, and the people who were suing for ownership
13 of this property not only wanted the property, they
14 wanted the cemetery moved.

15 Q. All right. And what did you do by way of
16 investigation, "you" meaning the team on your side of
17 the case?

18 MR. LINVILLE: Objection. Is that a
19 question, counsel? I'm sorry.

20 MR. McKENNA: Yes.

21 A. What did we do?

22 Q. Yes.

23 A. I don't pretend to be able to sit here and tell
24 you everything we did.

25 Q. I'm not asking you to. Just give me the

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- 1 highlights.
- 2 A. Well obviously part of it was a title search.
- 3 Q. All right.
- 4 A. Part of it was checking out the estate. All
- 5 derived from the estate of X, so part of it was
- 6 checking out who actually were the descendants.
- 7 Q. So records in the real estate office and in the
- 8 probate office; right?
- 9 A. Yes.
- 10 Q. And what else?
- 11 A. Going out to the property.
- 12 Q. Go ahead.
- 13 A. Looking at it, looking at the property lines,
- 14 looking at the stakes.
- 15 Q. "Looking at the stakes" did you say?
- 16 A. Yes. Stakes in the ground.
- 17 Q. Yes. The stakes were things that were permanent
- 18 monuments, or put there by a surveyor under your
- 19 supervision?
- 20 A. Oh, they were -- we were going to look for --
- 21 I'm --
- 22 Q. I see.
- 23 A. We were going to look for the monuments.
- 24 Q. All right.
- 25 A. I don't remember everything we did, but that's

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1 the type of stuff.

2 Q. All right. And any other kind of civil case in
3 which you can recall supervising the investigation?

4 A. Yes. Disputes over child custody. Well
5 divorces, child custody.

6 Q. Let's take -- okay. Let's take the child-
7 custody issue. What kind of investigations would you
8 supervise in those cases?

9 A. Depend upon the case, but --

10 Q. Give me an example.

11 A. One case in particular that I remember dealt
12 with a father who was -- basically had taken his
13 children to California.

14 Q. And what investigation did you do?

15 A. So we were investigating, well, one, trying to
16 find out actually what had happened physically to the
17 children; two, investigating the laws of Mississippi
18 and California; and another aspect of it was the
19 father was claiming this mother was -- was an unfit
20 mother, and so we were checking in to, you know, what
21 is the criteria for unfit; and checking out the facts
22 that go along with this, trying to determine the
23 facts of the case with the --

24 I mean, obviously, both sides had very strong,
25 as always --

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1 Q. Sure.

2 Did you work with a staff investigator at the
3 law firm to do that investigation?

4 A. Part of it.

5 Q. And who was the staff investigator at the law
6 firm that you worked with?

7 A. Hmm. Name is Jimmy. I'm drawing a blank on
8 people's names today.

9 Q. Was Jimmy a full-time employee of the law firm?

10 A. Yes.

11 Q. And you told Jimmy what things to do and then
12 supervised whether he did that?

13 A. Uh-huh.

14 THE REPORTER: Your answer?

15 THE WITNESS: Yes.

16 Q. And you said part of the investigation was with
17 the -- with Jimmy. Was there another investigator
18 that you hired?

19 A. No.

20 Q. The rest of it was legal research. Is what
21 you're saying?

22 MR. LINVILLE: Object to the form.

23 A. Much of it was legal research, that's correct.

24 Q. But was there some part that was not legal
25 research or stuff that Jimmy did?

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1 A. I don't remember everything that we did on the
2 case. That's --

3 You asked for highlights.

4 Q. I'm simply trying to follow up.

5 You said that part of it had to do with Jimmy
6 and then that some of it was legal research, and that
7 leaves me thinking there was some more, and I want to
8 know what that was.

9 A. Part of it was gathering facts myself, not with
10 the --

11 Q. Okay.

12 A. -- with the investigator.

13 Q. All right. Prior to the time that you started
14 at the Attorney General's office, had you ever
15 supervised an investigation in a criminal case?

16 A. I had supervised --

17 I would not say that I was, in quotes, the lead
18 supervisor. I did direct a lot of what the
19 investigators needed to go out and look for and find,
20 but not without --

21 I also was -- was checking with the partners in
22 the firm who were the lead counsel.

23 Q. You told me a while ago that none of the cases
24 that you had at that time had to do with fraud and
25 abuse in the health-care system. Is that right?

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- 1 A. That's correct.
- 2 Q. And that would include the investigations that
- 3 you've described; correct?
- 4 A. That's correct.
- 5 Q. What kinds of criminal cases did you have a
- 6 partial role in supervising the investigation on
- 7 while you were at Prentiss County?
- 8 A. Murder.
- 9 Q. Okay. Anything else?
- 10 That starts at the top, I guess.
- 11 A. Yes. There were things like theft, like --
- 12 but --
- 13 Insurance fraud.
- 14 Q. All right. Insurance fraud.
- 15 A. (Nodding.)
- 16 Q. But not in association with the health-care
- 17 system.
- 18 A. Correct.
- 19 Q. Now when you came to the Attorney General's
- 20 office, how long was it before you were assigned your
- 21 first case for either investigation or prosecution
- 22 purposes?
- 23 A. I don't remember how long. They did not just --
- 24 I did not just walk in the door and suddenly --
- 25 Q. That's why I asked the question. Was it a

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1 matter of weeks or months before they assigned you a
2 case?

3 A. I worked --

4 I don't remember the timeframe. I worked hand
5 in hand with the other attorney, and even with
6 investigators actually doing part of the
7 investigation, so to speak, learning --

8 Q. Well was there ever a time when you were
9 assigned primary responsibility for an investigation
10 and prosecution of a Medicaid fraud case?

11 A. Yes. I directed several, I mean, eventually.

12 Q. But you don't recall how long it was before you
13 had primary responsibility for one.

14 A. No, I don't remember. And I --

15 I don't remember that.

16 Q. How many cases --

17 MR. LINVILLE: Counsel, I'm sorry. Again I
18 don't mean to interrupt, but we're over two hours, so
19 when you come to a logical spot.

20 MR. McKENNA: That's fine. We'll stop
21 right now.

22 Do you want to take a break now, Ms. Overall?

23 THE WITNESS: Yeah.

24 MR. McKENNA: All right. Off the record.

25 (Recess taken.)

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1 BY MR. McKENNA:

2 Q. During the time that you were at the Mississippi
3 Attorney General's office, how many cases did you
4 have primary responsibility for either investigation
5 or prosecution?

6 A. I would be guessing to try to give you a case-
7 load amount. No.

8 Q. Can you give me an estimate?

9 If it's helpful for you to break it down between
10 investigation and prosecution, that's fine with me.
11 I'm just looking for a sense of the volume of your
12 work in that area.

13 A. Well I had some involvement in almost every case
14 that we had, I mean, but --

15 Because there were only two attorneys, so both
16 of us very much worked on almost all the cases.

17 Q. Are you saying, then, that you were not the
18 primary -- did not have primary responsibility for
19 any one of the cases?

20 MR. LINVILLE: Objection.

21 A. I don't know that I ever even thought about it
22 in -- Is this my case or is this Kenny's case? It
23 was the fraud unit's case.

24 Q. If I were to ask --

25 Well I will ask you: Give me an example of a

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1 case in which you felt that you did have primary
2 responsibility.

3 MR. LINVILLE: Objection.

4 A. My primary responsibility was to develop the
5 cases and do the legal research and prepare. Kenny
6 tried the cases. And so my case load -- I mean I was
7 investigating, if you will, or preparing, not for me
8 to try as the trial attorney.

9 Q. Okay. Did you --

10 During the time that you were there, did you
11 ever examine a witness in front of a petit or a grand
12 jury?

13 A. No.

14 Q. Did you ever make a presentation, either to a
15 petit or a grand jury?

16 A. Wait, I'm sorry. Would you back up and ask me
17 the question you just asked?

18 Q. Yes. Did you ever examine a witness before a
19 petit or a grand jury during the time that you were
20 at the Mississippi Attorney General's office?

21 A. Yes. I miss -- I missed --

22 I'm sorry, I didn't catch the question the first
23 time.

24 Q. Sure. And was that more than once?

25 A. Yes, it was. I questioned witnesses more than

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1 once.

2 Q. And approximately how many times? In terms of
3 numbers of cases if you want, or numbers of
4 witnesses. Whichever is easier for you.

5 MR. LINVILLE: Off the record.

6 (Discussion off the stenographic record.)

7 BY MR. McKENNA:

8 Q. Do you have in mind the question, Ms. Overall?

9 A. No. I'm sorry. I lost it when --

10 Q. All right. I'm asking you approximately how
11 many times you examined a witness in front of a petit
12 or a grand jury, either in terms of numbers of
13 witnesses or number of cases, while you were at the
14 Mississippi Attorney General's office.

15 A. I cannot remember whether this was -- whether in
16 front of --

17 Many of the times I questioned witnesses were
18 like in preliminary hearings.

19 Q. All right. If it will make it easier, we'll
20 include preliminary hearings as well as --

21 A. I can't remember which was what.

22 Q. Yeah. Well then I'll expand my question to
23 include preliminary hearings. Do you want me to
24 restate it?

25 A. No.

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1 I don't know that I can give you a number. I
2 don't remember a number. It's not a huge number
3 because, as I said, I was not the trial lawyer.
4 Q. Fewer than 10?
5 A. No, not fewer than 10.
6 Q. Fewer than 20?
7 A. I -- I don't remember how many.
8 Q. Were there cases in which you took an active
9 role in the presentation even though Kenny was the
10 principal trial lawyer?
11 A. Case presentation, is that what you said?
12 Q. Yes.
13 A. It was fairly infrequent. Yes, I argued
14 motions, but again, that was not part of my primary
15 job. Yes, I did argue motions.
16 Q. How much --
17 How long had Kenny been there? How much
18 seniority did he have, so to speak, as a lawyer?
19 A. Kenny had been a trial lawyer for years.
20 Q. Okay.
21 A. I don't remember how many.
22 Q. So the kind of team work that you worked out,
23 then, is that you helped with the investigation and
24 the legal research and the preparation and did some
25 presentation with respect to witnesses either at

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1 preliminary hearings or in front of the jury, but he
2 had the primary responsibility for presenting the
3 cases to the juries; correct?

4 A. That's correct.

5 Q. How many jury trials did you participate in
6 during the time that you were at the Attorney
7 General's office?

8 MR. LINVILLE: Objection.

9 Q. I will accept an estimate if you can make one.

10 A. Not a gigantic number, which is -- oh --

11 It was not uncommon for a case not to get to --

12 It was not uncommon to settle it before we

13 actually had to go through the jury trial.

14 Q. I'm just looking for a number of how many jury
15 trials you participated in, approximately, during the
16 time that you were at the Attorney General's office.

17 A. And I don't remember a number.

18 Q. And you're unable to give me an estimate.

19 Fewer than five?

20 A. I don't think so, but I really -- I really don't
21 want to just give you a number because I'm really not
22 sure.

23 Q. Well, I mean, you were at the Attorney General's
24 office, according to what I understood you to say,
25 for approximately 13 months, and I'm interested in

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1 knowing how many times during that 13 months a case
2 went to trial in which you participated,
3 approximately.

4 A. And sitting here I don't remember how many we
5 actually went through the whole trial and how many we
6 settled, so I'm -- I --

7 Q. Can you remember any one case in which you
8 participated in a jury trial?

9 A. Are you asking me about a trial that went all
10 the way to the point where we actually argued -- had
11 to argue before the jury?

12 Q. Yes.

13 A. One that comes immediately to mind is the first
14 one we ever tried under the Vulnerable Adults Act,
15 yes.

16 Q. Okay. Any others?

17 A. Yes, there were others. There were several of
18 those, but I --

19 Q. Several under the Vulnerable Adults Act; is that
20 what you meant to say?

21 A. Yes, there were.

22 Q. All right. Any cases that involved fraud and
23 abuse in the Medicaid system that you can recall that
24 went to trial during the time that you were there?

25 A. There were many that we began but that settled

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1 before we had to go through a full-blown jury

2 argument, et cetera.

3 Q. When you say you began, you mean you began the
4 investigation, or you actually began selecting a
5 jury?

6 A. There were several that settled that we actually
7 thought we were going to trial.

8 Q. No. My question is did you ever --

9 Can you recall a case which involved fraud and
10 abuse in the Medicaid system in which you actually
11 went so far as to begin a jury trial by selecting a
12 jury?

13 A. Not as I sit here, no.

14 Q. To try to make it a little more clear, the
15 Vulnerable Adult Act has to do with the physical
16 treatment of persons who are incapacitated because of
17 age or infirmity or disability of some kind,
18 primarily in institutions; is that true?

19 A. That's correct.

20 Q. And during that first year that that act was --
21 strike that.

22 During the period of time that you were there,
23 this was still relatively new legislation in
24 Mississippi, I think you told us; is that right?

25 A. Yes.

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1 Q. And would it be fair to say, then, that you and
2 Kenny and the others in your unit ended up having to
3 spend a good deal of your time in connection with
4 that; is that true?

5 MR. LINVILLE: Objection.

6 A. We had to spend time on it, of course.

7 Q. And you've alluded to several occasions in which
8 charges under that act were brought up to the point
9 of trial if not all the way through to a jury
10 verdict.

11 A. No. I'm sorry. If that's what it sounded like
12 I said, that's not correct.

13 Q. Well were there any cases that you went to trial
14 on during the time that you were there involving the
15 Vulnerable Adult Act?

16 A. Yes, I answered -- I thought I was answering
17 prior to fraud cases. The answer I gave --

18 Q. Yes.

19 A. -- as to many we thought we were going to have
20 to try but they settled, I was discussing fraud
21 cases.

22 Q. All right.

23 (Discussion off the record.)

24 BY MR. McKENNA:

25 Q. Now let me try to clear up the confusion that I

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1 appear to have some responsibility for.

2 There were some cases that went to trial
3 involving the Vulnerable Adult Act during the time
4 that you were there that you can recollect; is that
5 right?

6 A. Yes, that's correct.

7 Q. But you cannot recollect any cases that went to
8 trial during the time that you were there that
9 involved fraud and abuse in the Medicaid system; is
10 that true?

11 A. Not that went all the way through to the actual
12 arguing in front of the jury.

13 Q. Okay.

14 A. Many that were begun thinking that we would have
15 to do that.

16 Q. Right. And when you say "begun," you're talking
17 about investigations and actual charges; correct?

18 A. Correct.

19 Q. But you're not talking about getting so far as
20 actually starting to pick a jury, to select a jury to
21 try the case.

22 A. I do not remember reaching a point, as I sit
23 here, of actually picking a jury.

24 Q. All right. Now some of the other things that
25 you did while you were at the Medicaid Fraud Control

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1 Unit, did you have some responsibility to study the
2 extent of fraud and abuse in the Medicaid system in
3 Mississippi, and were your responsibilities primarily
4 the investigation and prosecution of individual
5 cases?

6 A. The responsibility was primarily to prosecute
7 the cases.

8 Q. Okay. Did you have any involvement in the study
9 of the extent of fraud and abuse in the Medicaid
10 system in Mississippi?

11 MR. LINVILLE: Object. What do you mean by
12 "study?"

13 MR. McKENNA: Well an examination of the
14 extent to which fraud and abuse was present in the
15 Medicaid system and the Medicaid program in the state
16 of Mississippi.

17 A. To the extent that I was exposed, obviously, to
18 many, many different claims, et cetera, and saw how
19 many of those indeed were fraudulent, yes, I saw
20 quite a bit. But it was not a systematic study that
21 was done like an academic study or anything like
22 that.

23 Q. Okay. As someone who has some familiarity with
24 social sciences, you're talking about anecdotal
25 information. Would that be a fair way to

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1 characterize it?

2 A. I suppose one might.

3 Q. All right. Well would you, whether or not one
4 might?

5 A. I was not gathering statistics.

6 Q. Okay. And that's really what I'm looking for,
7 is not a matter of gathering statistics, necessarily,
8 but did you have as a part of the mission of this
9 unit, a study of the Medicaid system, investigation
10 into the extent of fraud and abuse in the system, or
11 were you focused on individual cases?

12 MR. LINVILLE: Objection.

13 A. We did not have tunnel vision to the extent that
14 we just looked at individual cases without looking at
15 the context in which the different types of fraud
16 were occurring.

17 Q. You didn't have a legislative mandate, for
18 example, to come up with some sort of report
19 regarding the extent to which fraud and abuse
20 persisted in the Medicaid program in Mississippi; did
21 you?

22 A. Not that I remember, no.

23 Q. And during the time that you were there, did the
24 Attorney General or the unit that you were involved
25 with issue any report or any other kind of assessment

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1 of the extent to which fraud and abuse was present in
2 the Medicaid program in the state of Mississippi?

3 A. I don't remember such report.

4 Q. Would it be fair to say that the only time that
5 you've ever been asked to assess the degree to which
6 fraud and abuse is present in a state Medicaid
7 program is in connection with your work in this case?

8 A. No, it's not fair to say that's the only time
9 I've ever been asked the question.

10 Q. No, I didn't ask you whether you'd been asked
11 that question. My --

12 Let me see if I can't rephrase the question in a
13 way that will be clear to you.

14 MR. LINVILLE: I object to that last
15 comment.

16 Q. Would it be fair to say that the only time
17 you've ever been asked to assess the degree to which
18 fraud and abuse is present in a state Medicaid
19 program is in connection with your work in this case?

20 A. The only time I've ever been asked to write a
21 report, so to speak, a formal report of this nature
22 is in this case, yes.

23 Q. In what other connection have you ever been
24 asked to assess the extent to which fraud and abuse
25 is present in a state Medicaid program?

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1 A. An individual state, only to the extent that we
2 actually did study it at the AG's office. But no,
3 there's no report.

4 Q. Have you been consulting with the tobacco
5 industry or anyone else with respect to the extent of
6 fraud and abuse in any other state Medicaid program?

7 A. I did some work on the Florida case.

8 Q. On the Florida case. But you didn't prepare a
9 report.

10 A. Correct.

11 Q. Who was the attorney that you were working with
12 on that?

13 A. Anthony Ullman.

14 Q. And do you know which firm or which city Mr.
15 Ullman is in?

16 A. He is in New York.

17 Q. U-l-l-m-a-n?

18 A. Yes.

19 Q. And he was appearing on behalf of the tobacco
20 industry, as you understood it?

21 A. Yes.

22 Q. And has your work concluded on that?

23 A. Yes.

24 Q. Any other circumstances in which you have worked
25 on the assessment of the extent to which fraud and

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1 abuse exists in the Medicaid program?

2 A. Not with hands-on data, no, or exhibits,

3 whatever.

4 Q. Well you seem to be drawing some distinction.

5 Is there some other connection in which you did that?

6 A. No.

7 Q. So the only time that you've worked on

8 assessment of the extent of fraud and abuse in a

9 state Medicaid program, aside from your exposure to

10 individual cases in Mississippi, is this case and

11 some work which did not result in a report in the

12 Florida case; is that right?

13 A. Yes.

14 Q. Do you remember which portion of the tobacco

15 industry Mr. Ullman represented? One of the tobacco

16 companies or one of the tobacco industry

17 organizations, do you remember which one?

18 A. I think it's the same. The style of the case I

19 saw was "Philip Morris, et al."

20 Q. Well who did --

21 Who did you send your bill to, Mr. Ullman

22 personally?

23 A. Yes.

24 Q. And was it paid?

25 A. Well I sent it to his firm. And yes, it was

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1 paid.

2 Q. By the firm?

3 A. Yes.

4 Q. How much did you bill Mr. Ullman in that case?

5 MR. LINVILLE: Excuse me.

6 MR. DARLING: I thought there was a court
7 order --

8 MR. LINVILLE: I thought we weren't going
9 to talk about expert remuneration under the court
10 order.

11 MR. McKENNA: I see. Off the record.

12 (Discussion off the record.)

13 MR. McKENNA: Back on the record.

14 BY MR. McKENNA:

15 Q. How much time did you spend on the Florida
16 case? Can you estimate the number of hours for me?

17 A. I would --

18 I don't remember. Somewhere in the vicinity of
19 40 hours or so I would say. I don't remember
20 specifically.

21 Q. Did you do all that work in New Orleans, or did
22 you travel somewhere to do that work?

23 A. I did it in New Orleans.

24 Q. Incidentally, are you an attorney in good
25 standing at the present time?

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- 1 A. Yes.
- 2 Q. You've maintained your bar membership and
- 3 credentials in Mississippi?
- 4 A. I --
- 5 Yes. I'm --
- 6 Q. Go ahead. I'm sorry.
- 7 A. -- inactive.
- 8 Q. Inactive.
- 9 A. Yes.
- 10 Q. And are you a member of the Louisiana bar?
- 11 A. No.
- 12 Q. Are you a member of the bar of any other state?
- 13 A. No.
- 14 Q. And does your movement to inactive status in the
- 15 Mississippi bar, is that reflective of a decision, as
- 16 of right now at least, not to be practicing law?
- 17 A. Yes.
- 18 Q. Do you have an intention to return to the
- 19 practice of law sometime in the future?
- 20 A. It's not a question I can answer sitting here.
- 21 Q. Beg your pardon?
- 22 A. It's not a question I can answer sitting here.
- 23 Q. Well either you have the intention or you don't
- 24 have the intention.
- 25 Do you have an intention to go back to

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1 practicing law, or is that just a subject that you
2 will decide at some future date? Is that what you're
3 saying?

4 A. That's a subject that I will decide at a future
5 date.

6 Q. Okay. Have you ever been disciplined as an
7 attorney?

8 A. No.

9 Q. Have you ever been disciplined as an academic
10 person?

11 A. No.

12 Q. Was the work that you did on the Florida case
13 approximately contemporaneous with the work that
14 you've done on this case?

15 A. No, it wasn't.

16 Q. It was before the work you've done on this case;
17 correct?

18 A. Yes.

19 Q. Although you didn't write a written report, did
20 you have occasion to give some sort of verbal
21 indication of your preliminary, at least, conclusions
22 to Mr. Ullman in connection with the Florida case?

23 MR. LINVILLE: Objection.

24 A. My brain is fuzzy, so let me see if I can
25 clarify it. Are you asking me if I wrote a report,

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1 if I wrote an opinion, if I wrote anything, or I just
2 told him what happened?

3 Q. All right. I understood you to say that you
4 hadn't written anything, but perhaps I misunderstood.
5 Did you write anything with respect to your
6 conclusions, preliminary or otherwise, in connection
7 with the Florida case?

8 A. Yes.

9 Q. And would you characterize that as a report or
10 an opinion, or what?

11 A. Wasn't really an opinion. It was a -- it was a
12 report.

13 Q. Similar to the report that you've prepared in
14 this case?

15 A. No.

16 Q. Shorter or longer?

17 A. I don't remember whether it was shorter or
18 longer. It was a -- an analysis type.

19 Q. Did you come to the conclusion that there was
20 a -- that there was fraud and abuse in the Florida
21 Medicaid system?

22 MR. LINVILLE: Objection.

23 A. I never rendered an opinion.

24 Q. What were the subjects about which you did
25 render opinions in the report that you wrote in the

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1 Florida case?

2 A. Let's see, part of it was about procedure, the
3 procedure of -- of a claim going through, looking at
4 the fraud statutes. Part of it was -- it was a
5 procedure of taking a case from A to X, looking
6 through the statute and documents that I had to go
7 along with it. And that was about the bulk of it.

8 Q. And this is based upon materials that Mr. Ullman
9 had provided you?

10 A. (Nodding.)

11 Q. Yes?

12 A. Yes.

13 Q. Not research that you did.

14 A. Correct.

15 Q. And the materials included the statute and what
16 else?

17 "The statute," I assume you meant the Florida
18 fraud statute; correct?

19 A. Yes.

20 Q. All right.

21 A. There were documents of many different kinds
22 other than statutory. I mean there were procedures
23 like a SURS unit, there were reports. A lot of the
24 same type of materials that had been produced here.

25 Q. Reports from that litigation?

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- 1 A. No, reports from agencies, from --
- 2 Q. All right.
- 3 A. I don't remember. Far --
- 4 Q. Were you given any depositions in that case to
- 5 look at?
- 6 A. I think a couple. I --
- 7 Q. Were you given publicly published materials
- 8 similar to those that you've cited in the attachments
- 9 to your report in this case?
- 10 A. There were public materials in there, yes. I
- 11 don't remember specifically what they were, but there
- 12 were reports publicly published.
- 13 Q. Were any of the materials that you've cited in
- 14 Appendix II-B to your report as public source
- 15 documents reviewed by you in this case provided to
- 16 you by Mr. Ullman in connection with the Florida
- 17 case?
- 18 A. Not that I remember, no.
- 19 Q. Were all of the materials that are in Appendix
- 20 II-B uncovered by you as a matter of your own
- 21 personal research, or were they provided to you in
- 22 this case?
- 23 A. All of these Bates numbers --
- 24 Q. No, I'm talking about Appendix --
- 25 A. -- are obviously --

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1 Q. Excuse me. I'm sorry for interrupting you.

2 My question has to do with Appendix II-B, the
3 public resource documents.

4 A. Okay.

5 Q. Were they provided to you in your research, or
6 were they provided to you by counsel?

7 A. Some of these are in my own personal library,
8 and some of these were provided by counsel.

9 Q. Can you --

10 A. That was in response to, along with another
11 stack of stuff.

12 Q. Can you help me by looking through this to tell
13 me which of these things are in your own personal
14 library and which of these things you were provided
15 by counsel?

16 A. Cohen's testimony I have.

17 Counsel actually gave me the copy of the
18 Medicaid Sourcebook, but, I mean, I already had one.
19 It's not something I'm not familiar with. That was
20 just --

21 I can't remember if I had Stern's report myself
22 or not. I have a lot of congressional testimony in
23 my office and I -- I don't remember what all I have
24 sitting here.

25 Q. What about number three, the Coughlin work on

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1 "Medicaid Since 1980," did that come to you from
2 counsel?

3 A. Yes.

4 Q. And did number four, the Kaiser Commission, did
5 that come from counsel?

6 A. Yes.

7 The issue is it's stuff I've never seen before
8 or --

9 Q. No, the issue right now is where it came from to
10 you. If you'd seen it on some other occasion, that's
11 fine. I'm just curious now about whether, in
12 preparation of this report, did you get these
13 materials from counsel.

14 Number five, the Kaiser Commission on the Future
15 of Medicaid from July of 1995, was that given to you
16 by counsel?

17 MR. LINVILLE: Objection.

18 A. Counsel has all of this, but part of it --

19 I mean I didn't bring my own copies, so I don't
20 know how to --

21 Q. My question is: In connection --

22 Let me see if I can't try to make this clearer
23 to you.

24 A. Okay.

25 Q. In connection with the preparation of this

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1 report, these public source documents that you cite
2 in Appendix II-B, I want to know which of those were
3 given to you by counsel and which of those were
4 uncovered by you in connection with your own
5 research.

6 Did counsel give you number five, the Kaiser
7 Commission on the Future of Medicaid as listed in
8 Appendix II-B?

9 MR. LINVILLE: Objection.

10 A. Yes.

11 Q. And did counsel give you number six, the
12 Department of Human Services for the state of
13 Minnesota, Minnesota General Assistance Medical Care
14 Annual Report?

15 A. Yes.

16 Q. And you said that you weren't sure whether or
17 not counsel gave you the Stern report which is number
18 seven; correct?

19 MR. LINVILLE: Objection.

20 Q. Did I understand you correctly?

21 A. If you're asking --

22 That's correct.

23 Q. And number eight, the U.S. General Accounting
24 Office, "Medicare and Medicaid, Opportunities to Save
25 Program Dollars by Reducing Fraud and Abuse," the

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1 statement of Sarah Jaggar, was that given to you by
2 counsel?

3 MR. LINVILLE: Objection.

4 A. Yes.

5 Q. And number nine, was that given to you by
6 counsel?

7 MR. LINVILLE: Objection.

8 A. It was provided for review by counsel when I
9 read these materials, yes. But what I'm --

10 Go ahead.

11 Q. Number 10, was that given to you by counsel?

12 MR. LINVILLE: Objection.

13 A. Yes, technically the --

14 I'm not sure how to answer your question.

15 Q. Simply the question --

16 The question is whether counsel gave it to you.

17 MR. LINVILLE: Objection.

18 Q. And you said yes. Is that right?

19 MR. LINVILLE: Objection.

20 A. Counsel had copies of several of the things I
21 looked at, but that's not to say that this is not
22 stuff that I already had, so I'm not sure how to
23 answer your question. So we will leave it as I've
24 answered it.

25 Q. Well just so that I understand it here, you've

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1 indicated to me that with the exception of number one
2 and number seven in Appendix II-B to your report,
3 although you may have had other copies around or may
4 have had access to them or knew that they existed,
5 that counsel gave you copies of all those other
6 things in connection with the -- as a part of the
7 materials given to you to review in this case.

8 THE WITNESS: Can I read what he just
9 said?

10 (Witness reads computer screen.)

11 A. Counsel provided copies, yes.

12 Q. Did counsel also provide you with a copy of
13 number one, Mr. Cohen's remarks, even though you
14 already had a copy?

15 A. Counsel has a copy of this, that's correct. So
16 do I.

17 Q. No. My question is whether or not counsel gave
18 you a copy.

19 A. I don't remember which copy I was using.

20 Q. Do you remember whether counsel gave you a copy,
21 not which copy you looked at.

22 A. No, I do not remember.

23 Q. So it's possible that both number one and number
24 seven were also given to you by counsel, although you
25 have had other copies or access to other copies;

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1 correct?

2 MR. LINVILLE: Objection.

3 A. Well if you're asking me about a copy of a piece
4 of paper as opposed to information, I mean, for
5 example, this is a 1994 document that I've had since
6 1994 and I read when it first came out, and so --

7 Q. I don't think I --

8 A. Yes, I have a copy.

9 Q. No, I didn't ask you whether you had a copy.
10 You know very well that the question I asked is
11 whether counsel gave you a copy.

12 Did counsel give you a copy or not?

13 A. I don't remember.

14 Q. How do you know that counsel have a copy?

15 A. Because I asked.

16 Q. Okay. Is that true also of number seven?

17 A. I can't tell you about number seven.

18 Q. How did you go about selecting the public source
19 documents that you were going to review in connection
20 with your work in this case?

21 A. Some I had, and some counsel did show me, that's
22 true.

23 Q. All right. So had you -- are you --

24 Are you saying that over a period of time, that
25 you had maintained a file on fraud and abuse in the

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1 Medicaid program?

2 A. Yes, I am saying that.

3 Q. And where is that file today?

4 A. It's on several book shelves in my office.

5 Q. And when you say "it's on several book shelves,"

6 you indicated to me that it's quite a bulky file;

7 correct?

8 A. Well I wouldn't call it a --

9 I mean you can call it whatever you want to.

10 There's information. It's not a file. It's a

11 compilation of materials I've gathered over several

12 years. And yes, it's very voluminous.

13 Q. Now when you answered my question just a moment

14 ago you indicated with your fingers a space of

15 several inches, but earlier you said several

16 shelves.

17 MR. LINVILLE: Objection.

18 Q. Can you tell me approximately what volume this

19 file is that you're talking about?

20 A. I think I just did.

21 It's not a file as you think of a file folder.

22 Part of it is on two or three shelves in my -- book

23 shelves in my office. Part of it takes up --

24 More of it is in like a file cabinet, one of

25 these that you pull files out sideways, that takes

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1 up -- gee, I don't know how much of it. So I mean I
2 wouldn't characterize it as a file.

3 Q. Well I thought you did characterize it as a
4 file.

5 A. Well my -- I'm sorry. I misspoke if I --

6 Q. So you're saying it is not a file, but it is a
7 collection -- part of a collection of diverse
8 materials that you've collected; is that right?

9 A. That's correct.

10 Q. If you were to take that part of these diverse
11 materials that deal with the subject of fraud and
12 abuse and collate them, approximately what would be
13 the bulk of that material?

14 A. I -- I can't even --

15 I can't even estimate.

16 Q. Okay. And why is it that you can't estimate?

17 A. I can estimate to the point to tell you it's a
18 lot.

19 Q. Okay. Well, and that --

20 I think that you understand that I'm entitled to
21 know and want to know how much you mean by "a lot."
22 Are we talking about two inches' worth or two feet
23 worth of written materials?

24 A. I'm talking about two or three book shelves
25 full. I'm talking about half of a file cabinet

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- 1 drawer, huge file cabinet drawer.
- 2 Q. All right.
- 3 A. And some of it's in some boxes even.
- 4 Q. Okay.
- 5 A. So I don't know how to tell you, if I took it
- 6 off of the shelves and out of the filing cabinet
- 7 drawer and out of the boxes and put them all
- 8 together, how much is there.
- 9 Q. Okay. Is this material that you have collected
- 10 in connection with your own preparation to teach the
- 11 subjects that you're currently teaching at Tulane
- 12 University?
- 13 A. Well not the stuff that's stuffed in boxes,
- 14 but --
- 15 Q. Well maybe you can answer the question this
- 16 way: --
- 17 A. I use part of this for what I teach, yes.
- 18 Q. -- Why have you accumulated this material on
- 19 fraud and abuse in the Medicaid program?
- 20 A. Well, for one reason, I'm still interested in
- 21 fraud and abuse in the Medicaid program.
- 22 Q. Okay.
- 23 A. And another is I teach it, --
- 24 Q. Okay.
- 25 A. -- the Medicaid, so it's necessary to keep

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1 materials.

2 Q. Well I mean you've indicated and professed that
3 it's quite a large volume of material. Does this --
4 Does the amount of material that you've
5 collected with respect to fraud and abuse correspond
6 in relation to the total amount of material that
7 you've collected for teaching with the amount of time
8 that you spend on it in your courses?

9 MR. LINVILLE: I object to the form of that
10 question.

11 A. I don't understand your question. I'm sorry.

12 Q. All right. I'm going to ask you, then, how
13 much --

14 What, in terms of percentage of time in your
15 academic classes, do you spend teaching material that
16 has to do with fraud and abuse in the Medicaid
17 program? What percentage of the curriculum that you
18 teach is devoted to that subject?

19 A. In the health law class, about a sixth of the
20 course.

21 Q. A sixth of the course. Okay.

22 A. In the long-term care class, primarily one major
23 lecture, which is like -- and then it's referred to
24 throughout that course. And it's a minor topic, but
25 a topic in the management course.

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1 Q. So altogether, then, you say a sixth of one
2 course and very small parts of another course, is
3 that -- or two other courses. Would that be a fair
4 statement?

5 MR. LINVILLE: Objection.

6 A. It's not a small part of the second course. It
7 may only --

8 Q. I'll return, then, if I can, to an earlier
9 question. Is the amount of material that you have
10 accumulated with respect to the subject of fraud and
11 abuse in the Medicaid system proportional in relation
12 to the total amount of material you've collected for
13 teaching your courses --

14 MR. LINVILLE: Objection.

15 Q. -- as --

16 MR. McKENNA: Well you can't object in the
17 middle of my question. I think that you'll
18 understand.

19 MR. LINVILLE: I'm sorry. You paused and I
20 thought you'd finished. I beg your pardon.

21 Q. What I want to know is whether there is a
22 relationship, a proportionate relationship between
23 the amount of material that you've collected on the
24 subject of fraud and abuse in Medicaid as opposed to
25 the total amount of material you've collected in

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1 preparation for your courses, is that proportional to
2 the amount of time that you spend in your courses on
3 fraud and abuse in the Medicaid system?

4 MR. LINVILLE: Objection.

5 A. I don't think I understand the question either.
6 Can I read it?

7 (Witness reads computer screen.)

8 A. Proportional as opposed to what? I mean I'm not
9 sure --

10 I really don't understand what you're asking me.

11 Q. All right.

12 A. I'm sorry. Unless --

13 Q. Let's assume --

14 Let's assume that the total amount of time
15 devoted in your academic courses to fraud and abuse
16 is one-fifth of the total time. Is it also true that
17 one-fifth of the materials that you've collected are
18 devoted to fraud and abuse?

19 MR. LINVILLE: Objection.

20 A. Oh, I can't even --

21 There's no way to answer that question.

22 Q. You mean you don't know what materials you've
23 collected?

24 MR. LINVILLE: Objection.

25 A. I have an office full of materials. I mean --

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1 Q. And you --

2 And you're saying that you are unable to tell me
3 whether there is any relationship between the amount
4 of materials that you collected on the subject of
5 fraud and abuse and the amount of time that you spend
6 teaching that subject?

7 MR. LINVILLE: Objection.

8 A. Well if you're talking about the amount of time
9 I spend in the classroom --

10 Are you talking about the amount of time I spend
11 preparing?

12 Q. Whichever way you like.

13 A. I have no idea what you're asking me, and I
14 don't know how to answer your question.

15 Q. Okay. Is there a syllabus available for public
16 consumption of your courses?

17 A. Yes, but it's going to tell you when fraud and
18 abuse is taught.

19 Q. And will it tell me approximately how many
20 lectures and how much time is devoted to fraud and
21 abuse?

22 A. What I've already told you.

23 Q. Will the syllabus tell me what it says?

24 A. Yes.

25 Q. Okay. And do you honor that syllabus in terms

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1 of devoting that much time to fraud and abuse in
2 these courses?

3 A. Yes.

4 So I'm still trying to get you to explain to me
5 what it is you want me to tell you.

6 Q. I simply want to know, if you spend a quarter of
7 your time, for example, teaching fraud and abuse, is
8 it also true that a quarter of the materials that
9 you've collected have to do with fraud and abuse?

10 MR. LINVILLE: Objection.

11 Q. Or is the percentage higher or lower? That's
12 what I want to know.

13 MR. LINVILLE: Objection.

14 A. Well I don't know that there's necessarily a
15 correlation between the amount of materials on
16 subject X -- I mean I don't know that I can say that
17 if I divide every single subject, that a fifth of my
18 materials are X and a fifth are Y and a fifth are Z.
19 I don't know how to --

20 Q. Have you had a special interest in collecting
21 materials with respect to fraud and abuse as opposed
22 to materials with respect to other issues taught in
23 the courses that you are presently responsible for?

24 MR. LINVILLE: Objection.

25 A. Obviously, I collected materials on fraud and

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1 abuse for quite a few years.

2 Q. Would you like me to repeat the question?

3 A. No. I'll read it.

4 (Witness reads computer screens.)

5 A. I collect materials on everything that I teach.

6 That's correct.

7 Q. I'll repeat the question.

8 Have you had a special interest in collecting
9 materials with respect to fraud and abuse as opposed
10 to materials with respect to other issues taught in
11 the courses for which you are presently responsible?

12 MR. LINVILLE: Objection.

13 A. Well before I started teaching, obviously the
14 answer is yes, but I've continued to collect fraud
15 and abuse materials since that point when I started
16 collecting other materials, too. I don't know --

17 Q. It may be obvious to you, but it's not to me,
18 why -- why it would be true that before you started
19 teaching the answer is yes. Are you saying that's
20 because of your involvement with the Attorney
21 General's office?

22 A. Because of my involvement with the Attorney
23 General's office and because of consulting work I
24 did, for example, in teaching nursing home
25 administrators' seminars. Some of that was on -- you

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1 know, fraud and abuse were topics. I have taught
2 other seminars on Medicaid, et cetera. And so yes, I
3 was collecting material all along.

4 MR. LINVILLE: Counsel, when we come to a
5 convenient point --

6 MR. McKENNA: Fine. You want to take a
7 break? That's good. Let's do that.

8 (Recess taken.)

9 BY MR. McKENNA:

10 Q. Just a few more questions about your fraud and
11 abuse materials that -- starting --

12 I take it that most of the stuff you've
13 collected has come to you since the time you started
14 at the Attorney General's office in Mississippi;
15 correct? I'm sorry, with respect to the subject of
16 fraud and abuse.

17 A. Since I started at the AG's office.

18 Q. Right.

19 A. Right.

20 Q. You collected quite a bit of stuff there and
21 then just kept doing it because it was a subject you
22 taught and something you had an interest in; correct?

23 A. Uh-huh.

24 THE REPORTER: Your answer?

25 MR. LINVILLE: You have --

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1 THE WITNESS: Yes. I'm sorry.

2 Q. And now it has come to the point where you
3 described substantial parts of a couple of book
4 shelves and filing cabinets and some boxed materials
5 might be comprised of materials relating to fraud and
6 abuse in the medical area; correct?

7 A. Yes.

8 Q. During the time that you were at the Mississippi
9 Attorney General's office, you apparently also taught
10 as an adjunct instructor in the paralegal program at
11 Hinds Community College in Raymond, Mississippi;
12 correct?

13 A. This correct.

14 Q. Was that approximately coextensive with your
15 involvement at the Attorney General's office?

16 A. What do you mean by "coextensive?"

17 Q. Was it during the same time?

18 A. Oh. I'm sorry.

19 Yes. It was a night course.

20 Q. How much time did you have to devote to that,
21 both in terms of preparation and actual appearance
22 time?

23 A. It was one night --

24 As far as appearance time, one night a week per
25 semester. Preparation time, quite small, because I

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1 had taught that course quite frequently before,
2 and -- as I've said earlier, real estate and property
3 work was something I had done a lot of.

4 Q. What were you paid at the Attorney General's
5 office?

6 A. Well, 30 something thousand as I remember.

7 Q. What were you paid at Hinds Community College
8 for the teaching of the paralegal program?

9 A. I don't remember specifically. Probably
10 somewhere in the range of 1500 dollars per hour-
11 semester.

12 Q. And the subject that you taught was real estate
13 abstracting.

14 A. Uh-huh.

15 Q. Yes?

16 A. Yes. I'm sorry.

17 Q. Nothing to do with fraud and abuse.

18 A. No, that's correct.

19 Q. Why did you decide to leave the Mississippi
20 Attorney General's office?

21 A. There were several reasons. One is --

22 Well, I'll list them off. One, I was offered --
23 I was asked to take over a retirement home that was
24 in bankruptcy, to manage it, to bring it out. It was
25 something I thought I would enjoy doing. I wanted to

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1 teach. By this time I had become very much
2 interested in what was happening to the elderly in
3 the United States, what I had done with nursing homes
4 while in the AG's office. I had not backed off from
5 the point that eventually I wanted to teach in the
6 area of health care and health law, and this gave me
7 an opportunity to see not from a -- from the state's
8 point of view, it gave me an opportunity to move
9 towards the provider's side, and I believe that you
10 have to have experience in whatever it is you want to
11 teach, and so this was -- this let me shift. And I
12 also went -- went into business with some people to
13 do nursing-home-administrator education.

14 Q. Okay. So you started right away in August of
15 1991 working at the Chateau Ridgeland Retirement and
16 Personal Care Home?

17 A. No, it didn't happen right --

18 It was supposed to have.

19 Q. All right.

20 A. But I think it was actually September before I
21 started. I was doing -- I was being prepared to
22 take -- to start, but it's when --

23 I didn't actually walk out and take over
24 management, I think, until, as I remember,
25 September. I'll have to go back and look, but --

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1 Q. Sure.

2 Approximately how much time passed, a month, six
3 weeks, between the time you left the AG's office and
4 the time you started at Chateau Ridgeland?

5 A. Well I left the AG's office in July and began in
6 September, as I remember.

7 Q. Approximately when in July?

8 A. I can't remember if it was mid-July or the end
9 of July.

10 Q. Okay.

11 A. I don't think it was the beginning.

12 Q. And when in September did you start on this?

13 A. I don't remember if it was the beginning of the
14 month or not. I'm sorry, I just don't remember.

15 Q. What did you do from the standpoint of being
16 able to sustain yourself economically during that
17 interim?

18 A. Well we had begun seminars with -- I think --
19 let me go back and --

20 LTC 2000, which was the -- the company that some
21 friends of mine and I set up to do -- "LTC" stands
22 for Long Term Care 2000, and so we had begun that and
23 were doing -- presenting some seminars and stuff, so
24 I was getting income from that. And I did some
25 part-time freelance work as a -- as an attorney,

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1 title work and that type, which I had done for
2 years. Not just that, but on a -- not on any money
3 salary, but for work done. That's what I --
4 Q. But at the time you left the AG's office, you at
5 least thought at that time that it was in place for
6 you to go to work directly at Chateau Ridgeland, but
7 that deferred until sometime in September; is that
8 right?

9 A. Uh-huh.

10 Q. Yes?

11 A. Yes. I'm sorry.

12 Q. And what was it that happened that created a
13 longer period in between than you anticipated?

14 A. Oh, I don't know. It was legal --

15 As I say, it was in bankruptcy, and there was a
16 lot of shareholder activity. I don't -- I wasn't
17 privy to what all was going on, but the actual time
18 to go in and take it over didn't happen when the
19 lawyers and shareholders originally thought it would.

20 Q. Who hired you there?

21 A. Chairman of the board and --

22 Well, the chairman of the board I suppose.

23 Q. And who was that?

24 A. His last name is something like R-o-u-e-l,
25 Rouel, but I'm not sure that's how you spell it.

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- 1 Q. Where is Ridgeland in relation to Jackson?
- 2 A. Right next -- I mean it's --
- 3 Q. A suburb?
- 4 A. Well it's actually in a different county, but
- 5 it's --
- 6 Yeah, you could consider it that. It's in the
- 7 Jackson metro area, yes.
- 8 Q. Did you have to change your residence in order
- 9 to take this job?
- 10 A. No.
- 11 Q. And does Mr. Rouel have another business aside
- 12 from his work in connection with this?
- 13 A. He had a --
- 14 I believe he owned a real estate company. I --
- 15 Q. In Jackson?
- 16 A. Uh-huh, yes. I don't know that he still does.
- 17 Q. Now who are the people that you started this LTC
- 18 2000 with?
- 19 A. One is a man who's now a consultant --
- 20 I'm not sure he's consulting. He's working in
- 21 the health-care field in Maryland.
- 22 Q. And his name?
- 23 A. Mike Cunningham.
- 24 Q. Do you know which city he's at in Maryland?
- 25 A. Well he was in Silver Spring, but I'm not sure

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1 that's where he lives.

2 Q. Do you know the name of his consultation company
3 or the company he works for?

4 A. No, because he quite recently, I think, formed
5 his own company with somebody else, and I really
6 don't know what the company name is.

7 Q. And how was it that you knew Mike before this
8 enterprise?

9 A. I met Mike through the other two partners in the
10 company that we formed.

11 Q. Okay. And who are they?

12 A. One's name is Gordon Whyte, W-h-y-t-e, and the
13 other one's name is Joe Townsend, T-o-w-n-s-e-n-d.

14 Q. Are they from the Jackson area?

15 A. No.

16 Q. Where are they from?

17 A. Louisiana.

18 Q. How did you happen to know them?

19 A. They were classmates of mine when I was in
20 school to get my health-care administration degree.

21 Q. And did you seek them out or did they seek you
22 out?

23 A. They sought me.

24 Q. And at the time that they sought you out, you
25 were still at the AG's office; correct?

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1 A. Yes. When I started talking about this company,

2 I was still at the AG's office.

3 Q. And had you at that time formed an intention to

4 go to Chateau Ridgeland?

5 A. You know, I can't remember. All this happened

6 very much in the same time period. I -- I don't

7 remember.

8 Q. Well --

9 A. I mean this was not planned to be a full-time

10 job as a startup company.

11 Q. That was my next question.

12 A. So I don't know how to answer your prior

13 question.

14 Q. Did you have an intention in your own mind as to

15 how much of your time you were going to devote to LTC

16 2000?

17 A. No, not then. I mean it was just --

18 Q. You did --

19 A. I'm sorry.

20 Q. -- expect to do it in connection with -- or in

21 addition to some other work; correct?

22 A. Yes.

23 Q. And would it be fair to say that you essentially

24 assumed that you would have another full-time job and

25 do LTC 2000 on the side?

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- 1 A. Yes. But I --
- 2 Yes, that's reasonable to assume.
- 3 Q. Where is Thibodaux, Louisiana?
- 4 A. Thibodaux is about 90 miles -- I think it's 90
- 5 miles west of New Orleans.
- 6 Q. And where is it in relation to Jackson? I'm
- 7 betraying my ignorance of Southern geography here.
- 8 A. Let's see, here's Jackson (indicating) --
- 9 Q. Yes.
- 10 A. -- and here's New Orleans.
- 11 Q. Yes.
- 12 A. You'd be facing --
- 13 Here's Thibodaux.
- 14 Q. I see. So it's actually further from Jackson
- 15 than it is from New Orleans, is what you're
- 16 indicating.
- 17 A. Oh, yes. Yes.
- 18 Q. Okay. And was it necessary for you to relocate
- 19 your residence in order to be working at LTC 2000 in
- 20 Thibodaux?
- 21 A. No.
- 22 Q. Were you able to do your health-care marketing
- 23 management and training consultation from your home
- 24 in Jackson?
- 25 A. What we actually --

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1 Yes.

2 Q. Did LTC 2000 ever have an office anywhere?

3 A. It had a corporate office listed in Thibodaux.

4 Q. And was that in somebody's home?

5 A. It was in Mike's office. It was --

6 That was not in a home, but built on the same
7 property.

8 Q. But what I'm trying to get at: Was there ever a
9 place where LTC 2000 was on the door of the business,
10 or was it always in connection with somebody else's
11 office devoted to another professional activity?

12 A. I don't remember that there was ever a sign up
13 because it was -- the company was designed not to
14 bring people in to us, but to go out and present
15 seminars and stuff. So I really don't remember.

16 Q. Was there ever an LTC 2000 letterhead?

17 A. Yes.

18 Q. And business cards?

19 A. Yes.

20 Q. All of them listing an address in Thibodaux.

21 A. Yes, listing the company address in Thibodaux.

22 Q. Okay. And where was the office? Was it in
23 somebody's law office or something like that?

24 A. It was in an office. It was in an office in a
25 building that is on the property with Gordon Whyte's

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- 1 house, but it's not in the same -- I mean it's not
2 the same building.
- 3 Q. Is it in a residential area?
- 4 A. Yes.
- 5 Q. And it never would have LTC 2000 on the door and
6 a sign is what you're saying.
- 7 A. I don't ever remember it having a sign, no.
- 8 Q. Okay. Was there ever a telephone listing for
9 LTC 2000?
- 10 A. Yes, there was.
- 11 Q. Did LTC 2000 ever have a staff --
- 12 A. No.
- 13 Q. -- aside from the three of you or the four of
14 you who were principals?
- 15 A. No.
- 16 Q. Were you a partner in this outfit?
- 17 A. When the three of them formed the company, I was
18 not. When they contacted me, it was with the
19 understanding that if this worked and if I wanted to
20 be, eventually I would become a stockholder. And I
21 can't tell you whether I ever exercised that option
22 or not. I know I almost did, but I can't remember.
- 23 Q. So were you paid a salary or a commission, or
24 how were you compensated?
- 25 A. Paid by seminar. If we didn't do anything, we

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1 didn't get any money.

2 Q. Can you approximate for me how much in terms of
3 revenues you got from your work at LTC 2000?

4 A. No. I don't remember.

5 Q. How many seminars do you think that you put on?

6 A. I don't remember. Somewhere in the range,
7 possibly, of six to 12, something like that, before
8 we decided not to continue it.

9 Q. And what would be the approximate duration of
10 these seminars? Would it be one or two days each, or
11 longer, or what?

12 A. Some were a day, some were longer.

13 Q. What was the longest one you can recall?

14 A. I think -- I think --

15 I think two days was the longest we did.

16 Q. And would it be fair to say that most of your
17 involvement with this preceded your active
18 involvement in Chateau Ridgeland?

19 A. No.

20 Q. Would it be fair to say that over the two years
21 that you've listed in your resume, that the six to 12
22 seminars were pretty evenly spread out during that
23 time?

24 A. As I remember, they were fairly evenly spread
25 out.

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- 1 Q. How much were you paid per seminar?
- 2 A. I don't remember.
- 3 Q. Was it a few hundred dollars per seminar?
- 4 A. It depended on how many people came.
- 5 Q. Were you ever paid, you personally ever paid as
- 6 much as a thousand dollars for one of these seminars?
- 7 A. I honestly don't remember.
- 8 Q. And you've indicated in your resume that you
- 9 primarily conducted seminars for nursing home
- 10 administrators in Mississippi and Louisiana. Were
- 11 there other things besides these seminars that you
- 12 personally were engaged in in connection with this
- 13 company?
- 14 A. Me personally, no.
- 15 Q. Does the company still exist?
- 16 A. No.
- 17 Q. Do you know what business Gordon Whyte and Joe
- 18 Townsend are in now?
- 19 A. Joe Townsend is --
- 20 I don't know his actual title, but he's in
- 21 administration of nursing homes. And Gordon Whyte
- 22 now teaches with me at Tulane, on the same -- on the
- 23 same -- at --
- 24 Not with me, but he teaches at Tulane.
- 25 Q. What subjects does he teach at Tulane?

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1 A. He teaches strategic planning, he teaches
2 marketing. He teaches more than that, but I don't
3 recall what the others are.

4 Q. Do you know what city Mr. Townsend works in?

5 A. Baton Rouge, I believe.

6 Q. You've listed that also during the next few
7 years, between 1992 and 1994, you were an attorney in
8 private practice in Jackson, Mississippi, which
9 practice included Medicare, Medicaid and long-term
10 care issues as well as probate, corporate and real
11 estate law.

12 Were you associated with a law firm during that
13 time?

14 A. It was a lawyer who was going out on his own
15 solo, and he wanted somebody to help him, and I was
16 not interested in becoming a member of a law firm,
17 but I agreed to help him, yes.

18 Q. And who was that?

19 A. Um -- oh, great.

20 Keith Shelton.

21 Q. Is Mr. Shelton still in practice in Jackson,
22 Mississippi?

23 A. Yes.

24 Q. And during --

25 When you say 1992 do 1994, can you help me focus

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1 a little more what months to what months?

2 A. I don't remember when in '92 -- let's see --

3 I believe that I began early in '92 after I left
4 Chateau Ridgeland the end of '91.

5 Q. And how long into 1994 did that continue?

6 A. I started teaching --

7 Close to the end of '94, if not the end. I'm
8 not sure exactly what date.

9 Q. So during that period of time, would the amount
10 of time that you devoted to this practice vary, or
11 was it fairly consistent?

12 A. It was fairly consistent up until towards the
13 end of the year.

14 Q. Okay. And approximately what percentage of your
15 time did you devote to the practice of law?

16 A. Well again it varied depending on what I was
17 doing.

18 Q. You're not able to tell me whether you were half
19 time, a quarter time, or what percentage of your time
20 on the average over that period of time you devoted
21 to this practice?

22 A. This was a fairly substantial amount of time,
23 but I can't --

24 I -- I don't know that it was as much as 50
25 percent of my time. It may have been. This was -- I

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1 was substantially practicing there over a period of
2 time until towards the end of the year.

3 Q. And your practice included Medicare, Medicaid
4 and long-term care issues. Can you tell me in what
5 way those issues arose in your practice?

6 A. Yes. Keith had several elderly clients, and
7 quite frequently there would be questions about
8 Medicare eligibility, Medicaid eligibility, trying to
9 get people into a nursing home, trying to understand
10 all the things that people don't understand about
11 what really goes on about nursing homes and
12 admissions, et cetera. That's primarily it.

13 Q. Mostly for recipients of Medicaid or Medicare
14 benefits rather than for providers?

15 A. I think that's a fair statement.

16 Q. Were there any occasions when you represented a
17 provider of Medicare or Medicaid services or provider
18 of long-term care services during that time?

19 A. Not as a lawyer.

20 Q. When you say "not as a lawyer," you are
21 reserving discussion with regard to the consultation
22 that we discussed earlier and some other things that
23 are in your resume; is that right?

24 A. Uh-huh.

25 Q. Yes?

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1 A. Yes.

2 Q. That is hard to remember, I know.

3 Did any of the issues that you dealt with in
4 connection with that practice and association with
5 Mr. Shelton have anything to do with fraud and abuse
6 issues in the Medicare -- excuse me, the Medicaid
7 program?

8 A. I think not.

9 Q. And at approximately the same time you were an
10 adjunct assistant professor at Tulane in the School
11 of Public Health and Tropical Medicine, The
12 Department of Health Systems Management; is that
13 true?

14 A. Correct.

15 Q. Would that have been during the '92-'93 and
16 '93-'94 academic years?

17 A. Correct.

18 Q. And did you continue to reside in the Jackson,
19 Mississippi area while you were working part of the
20 time at least at Tulane?

21 A. I did.

22 Q. What is the distance between New Orleans and
23 Jackson?

24 A. Depending on which highway you take, about
25 270 -- no. One hundred seventy, I guess, between 170

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1 and 200 miles.

2 Q. And --

3 A. Approximately.

4 Q. Okay. Did you then --

5 I think you said you did commute between -- to

6 go there; correct?

7 A. That's correct.

8 Q. How did you happen to get this position at

9 Tulane that you held between '92 and '94?

10 A. The first semester that I taught the class in

11 long-term care management, which is the first class I

12 taught there, the person who was supposed to have

13 taught that class was Gordon Whyte. I can't remember

14 the circumstances now as to why he was going to be

15 unable to teach it. And he was asked if he knew

16 anyone else who could teach it, and he asked me would

17 I be interested in doing it. So I began by

18 teaching -- I -- I did. I filled in for him that

19 semester, and as a result was asked to continue

20 teaching.

21 Q. So that first semester you taught one course?

22 A. Correct.

23 Q. And which one of those courses was that?

24 A. Contemporary issues in long-term care

25 management.

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1 Q. Okay. And what percentage, approximately, of
2 that course did you devote to the subjects of fraud
3 and abuse in the long-term care system?

4 A. Well, one full lecture in that class is devoted
5 to fraud and abuse, but throughout the semester, as
6 it arises in different subject areas, it comes back
7 up. But as far as one full one, here's the lecture.

8 Q. Did you use Mr. Whyte's materials for that first
9 semester?

10 A. No.

11 Q. Have you maintained those materials that you
12 used for that course?

13 A. Well if they're in --

14 Have I maintained them separately from the rest
15 of the materials I have for long-term care? I don't
16 know. Yes, I've retained the materials.

17 Q. But you don't know whether you would be able to
18 go to your office and reconstruct for me what
19 materials you used in that course?

20 A. I don't know.

21 Q. How many lectures were there altogether in that
22 semester?

23 A. Those courses are one night a week for a
24 semester. That's roughly, what, 18 weeks. Somewhere
25 thereabouts.

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- 1 Q. Okay. Now --
- 2 A. Maybe 16. I'd have to go back and look at the
- 3 calendar.
- 4 Q. Now the second semester that you taught, did you
- 5 expand, then, the amount of teaching that you did?
- 6 A. No.
- 7 Q. Still the single course on contemporary issues
- 8 in long-term care management?
- 9 A. No. I taught health-care policy now in the
- 10 second.
- 11 Q. Okay. But that was also one course. Was it
- 12 also one night a week?
- 13 A. Uh-huh.
- 14 Q. Yes?
- 15 A. Yes. Sorry.
- 16 Q. And did you devote about the same percentage of
- 17 time to the subject of fraud and abuse in that course
- 18 as you did the one in the first semester?
- 19 A. I don't remember off the top of my head, but
- 20 probably about the same because I would have devoted
- 21 one lecture, I think, and as it -- as it happened to
- 22 come up in discussions.
- 23 Q. All right. And then taking the second academic
- 24 year in the fall semester, how many courses did you
- 25 teach?

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1 A. Each semester, up until the last one I taught as
2 an adjunct, I taught one course.

3 Q. All right. And what course did you teach in the
4 fall?

5 A. It would have been contemporary issues of
6 long-term care management.

7 Q. Okay.

8 A. Each and every fall.

9 Q. And then the second semester of the second full
10 year you taught more than one course?

11 A. I may have --

12 The fall semester of '94 I taught the long-term
13 care management course and principles of health
14 systems administration and management. That's the
15 only semester I taught two.

16 Q. Now I think that maybe I misunderstood you. So
17 you taught fall '92, spring '93, fall '93, spring
18 '94, and fall '94 in this capacity as an adjunct
19 assistant professor?

20 A. Yes.

21 Q. Yes?

22 A. Correct.

23 Q. And although during the last of those five
24 semesters you taught two courses, you were still
25 talking about one night per week per course; correct?

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- 1 A. Correct.
- 2 Q. And the students that you taught, were they
- 3 night students?
- 4 A. Well no. I guess the correct term is "late
- 5 afternoon."
- 6 Q. Okay.
- 7 A. They're regular students. Not like a night
- 8 program.
- 9 Q. All right. They were undergraduates?
- 10 A. No, they're all graduates.
- 11 Q. This wasn't an undergraduate school, School of
- 12 Public Health and Tropical Medicine. That's a
- 13 separate school of the university?
- 14 A. Yes, a division of the Medical Center. We have
- 15 only graduate students. And incidentally --
- 16 Well, the semester that I taught two courses, I
- 17 taught them both the same day, so it wasn't -- so I
- 18 didn't have to go twice.
- 19 Q. Okay. And in each of these courses,
- 20 approximately the same amount of time, let's say one
- 21 full lecture and then as the subject arose
- 22 intermittently, was devoted to fraud and abuse,
- 23 approximately?
- 24 A. The subject is introduced in the principles
- 25 course along with ethics.

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1 Q. Okay. When you --

2 In those courses, when you taught fraud and
3 abuse, were you at that time -- did you have time to
4 do more than simply describe some kinds of abuse that
5 could take place, some kinds of fraud and abuse? How
6 much -- how much attention could you pay to that
7 subject in one full lecture is what I'm trying to get
8 at?

9 A. Well, for example, in the long-term care class,
10 as I've said, there's a -- there's a lecture devoted
11 to it, but after that it's -- it's pretty much --
12 it's discussed around the course. It's not just one
13 lecture.

14 Q. Yes.

15 A. But keep in mind that these are all graduate
16 students who know something about Medicare and
17 Medicaid. Now if I --

18 With the exception of the management class.
19 They do not. So there is some foundation already
20 with students before I get them; therefore, I'm able
21 to teach more than I could if I had all students, for
22 example, who were in the -- the principles course.

23 But to get into the -- I mean --

24 I go beyond here of some examples, I mean --

25 Q. What kinds of things would you talk to them

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1 about?

2 A. Here's what it is. We go through -- for

3 example, we put a --

4 Let me give you an example that I give. Part of
5 it is -- is also bringing in how this is integrated
6 with different health-care payment systems. So, for
7 example, in a long-term care -- in the long-term care
8 class, I usually give an example of an occurrence
9 that might be -- might be fraud, a fraudulent case,
10 and talk about this is a description of how, you
11 know, investigators might come in from not just the
12 AG's office but from various different agencies. We
13 talk about what might constitute fraud, what -- what
14 is abuse. Yes, obviously examples there, examples of
15 cases. Obviously part of this lecture entails the
16 fact that you have to submit bills, et cetera, et
17 cetera, and that here are things that could happen.
18 Documentations, importance of that, those types of
19 factors. That's not all, but that's part of the
20 course.

21 Q. During the time that you were doing this, you
22 also taught a torts course at the -- at Mississippi
23 University for women in the paralegal program; is
24 that right?

25 A. That's correct.

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1 Q. And did any of that have to do with fraud and
2 abuse?

3 A. No.

4 Q. But at Tulane, while the time -- during that
5 time as an adjunct professor, many times people
6 involved in academic life are also engaged in
7 research on the side. Other than that necessary to
8 prepare for your lectures, were you doing any
9 research?

10 A. Not what you would consider -- probably what you
11 would consider academic research to be put in a
12 magazine, no; just what I was gathering on my own.

13 Q. As a part of preparing yourself to teach these
14 courses; correct?

15 A. Hmm. Basically, yes.

16 Q. You weren't engaged in any study at that time,
17 apart from what you felt you needed to do to prepare
18 yourself for your courses, of the incidence of fraud
19 and abuse in the Medicaid program at any place; were
20 you?

21 MR. LINVILLE: I object to the form.

22 A. By systematic study, you mean something like for
23 Minnesota?

24 Q. No. I mean any sort of systematic study. I
25 mean were you --

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1 I mean let me try again. Were you doing
2 anything aside from what you were doing to prepare to
3 teach your courses to study the problem of fraud and
4 abuse in the health-care system?

5 A. Part of it was, yes, preparing to study for what
6 I was teaching in the classroom at Tulane, part of it
7 was devoted to keeping up with the changing rules and
8 regulations that deal with long-term care because I
9 was teaching seminars on long -- to long-term care
10 administrators, and part of that dealt with what's
11 going on in the fraud area in those types of
12 facilities.

13 Q. Okay.

14 A. And so it wasn't just in preparation for class.

15 Q. All right. Now in the academic parlance at
16 Tulane, what does it mean to be an adjunct assistant
17 professor?

18 A. It means that I'm not full-time.

19 Q. And that's not a tenured track either; is it?

20 A. No.

21 Q. And did you have an office at Tulane at that
22 time?

23 A. I had an office that I shared with other adjunct
24 professors.

25 Q. I see. Okay. Was there university staff

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1 available to you for clerical purposes, for example?

2 A. Yes.

3 Q. Now in September of '91, when you started at

4 Ridgeland, I understood you to say that you left

5 there late in the year of 1991; correct?

6 A. That's correct.

7 Q. Did you leave there voluntarily?

8 A. Well I left there when my job was done. I was

9 hired to -- as an interim manager literally to hold

10 the company together, so to speak, while it was in

11 bankruptcy. It was sold, actually, to a large

12 national chain at the end of the year, and they came

13 in and took it over. And when that happened, I

14 left. But that -- I was through.

15 Q. How large a place was this in terms of number of

16 beds?

17 A. One hundred seven.

18 Q. And how large was your staff?

19 A. There were probably 25 to 30 employees. I'd

20 have to go back and look to be sure.

21 Q. Do you know approximately how many of your

22 patients were beneficiaries of Medicaid?

23 A. None.

24 Q. Was there any part of what you did at Chateau

25 Ridgeland that touched upon the subject of fraud and

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- 1 abuse in the Medicaid system?
- 2 A. No.
- 3 Q. How about fraud and abuse in connection with
- 4 organizations similar to Blue Cross Blue Shield of
- 5 Minnesota?
- 6 A. No.
- 7 Q. Now when did you become involved with the
- 8 company that you've described as CODE, Inc.?
- 9 A. I believe that company started somewhere around
- 10 April of '92.
- 11 Q. And you were one of the principals?
- 12 A. I was a, I think, 17 percent shareholder. Maybe
- 13 it was 12.
- 14 Q. That's fine.
- 15 A. Less than 20, --
- 16 Q. All right.
- 17 A. -- more than 10.
- 18 Q. Who were the other principals? If there were
- 19 only a few, tell me who they were.
- 20 A. There were four other principals. Two of them
- 21 were Don and Anne Skinner, two of them were Gary and
- 22 Carol Rollins.
- 23 Q. And the last name of the last?
- 24 A. Rollins, R-o-l-l-i-n-s.
- 25 Q. All right. And who were those people in terms

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1 of their professional or occupational background?

2 A. Carol Rollins is a nurse and has been a nursing
3 home administrator for the last -- gee, I don't know,
4 years, long -- very long time, years and years and
5 years. Gary Rollins has been a health-care
6 consultant for many years. He has consulted with or
7 been a -- like a troubleshooter in administering
8 almost every type of nursing -- of health-care
9 facility that we have in the United States. Don and
10 Anne Skinner own a -- they had a group purchasing
11 company for health products, and I guess you'd call
12 it a medical supply company.

13 Q. How did you become involved with them? How did
14 you know these people before you became involved with
15 them as a co-owner of CODE, Inc.?

16 A. I went to high school with Anne Skinner.

17 Q. And is CODE, C-O-D-E, is that an acronym for
18 anything?

19 A. Yes. Coordinate Operations Development
20 Enterprises, Inc.

21 Q. And where is Clinton, Mississippi? Close by
22 Jackson?

23 A. Yes.

24 Q. Where were the offices of CODE, Inc.?

25 A. In Clinton, Mississippi.

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1 Q. And were they in an office building or were they
2 part of the offices devoted the some other
3 enterprise?

4 A. When it first started, it was in Don and Anne
5 Skinner's office in Clinton.

6 Q. And what kind of office did they maintain?

7 A. It was a group purchasing --

8 Q. Okay. What is the name of that company, by the
9 way, the group purchasing company?

10 A. Southeast Marketing, I think.

11 Q. And eventually it had another office?

12 A. Yes. Eventually they built an office behind
13 their home and moved everything there.

14 Q. Again, that was in a residential area?

15 A. Yes.

16 Q. Is Clinton, Mississippi a small town?

17 A. Yes.

18 Q. And were you at the same time and with the same
19 people involved in 2008, a limited liability company?

20 A. Later, yes.

21 Q. But it was the same folks, the Skinners and the
22 Rollinses?

23 A. Correct.

24 Q. How much later? When did --

25 When did 2008 come into being?

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1 A. In 1994.

2 Q. Approximately when in '94, do you remember?

3 A. Somewhere around October.

4 Q. And how did that happen to come about? Tell me

5 the story of how you got involved in that.

6 A. There is a nursing home in Tishomingo County,

7 Mississippi, which is close to my home town --

8 Q. That's down close to Booneville now.

9 A. Right. It's up above Booneville.

10 Q. All right. Thank you.

11 A. There was a hospital there, it's a hospital and

12 a nursing home under the same roof, owned by the

13 county. A new hospital was being built. It has been

14 built and is now open. The patients from the

15 hospital were being moved to the new hospital. The

16 patients in the nursing home were going to stay in

17 the nursing home. The board of supervisors, which is

18 the governing body of that county, asked for bids on

19 doing something with that vacant hospital for the

20 elderly of that county, and with the nursing home, at

21 least management if not -- they actually wanted to

22 sell it, but the only purpose -- for the purpose of

23 developing something -- something for the elderly of

24 the county. Because it's close to where my parents

25 live and obviously close to my home town, I heard

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1 about it and went myself and spoke with part of --
2 the board of supervisors to ask what they were
3 looking for. And then I decided this was something
4 that I wanted to do, and asked the other people if
5 they would want to join me. And we were successful.
6 We got the bid.

7 Q. It was just the five you, then, that owned 2008?

8 A. No. It was three of the five that owned 2008.

9 Q. Okay. Which three?

10 A. The Rollinses and I.

11 Q. I see. And what role did the Skinners have, if
12 any, in this?

13 A. Initially they planned to be members of a -- it
14 was a limited liability company. They intended to be
15 members. They were to have produced the operating
16 capital. We were just going to take it over, so
17 there was not going to be startup costs.

18 They did not produce the money they were
19 supposed to, and the three of us went ahead and took
20 over the -- found someone else to bring in that
21 money. We had a deadline to meet with the county for
22 when we had to take this over, so we went ahead
23 and -- and found other money and took the thing --
24 the -- the nursing home over when we'd agreed to do
25 it.

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1 Q. As far as equity interest in 2008, though, it
2 was just you and the Rollinses?

3 A. That's correct.

4 Q. And was the interest split equally between the
5 three of you?

6 A. No.

7 Q. What were the percentages?

8 A. Fifty percent was mine.

9 Q. And 50 percent was theirs?

10 A. They had individually 25 and 25.

11 Q. Right.

12 And what was the significance of the term 2008?

13 Did you select that?

14 A. No. Gary Rollins liked that, and at the time we
15 chose this name, that was the year it was projected
16 that the Medicare Trust Fund would run out.

17 Q. Cheerful thought.

18 How far is this from where you lived in Jackson?

19 A. Two hundred miles, approximately.

20 Q. Then after you --

21 Was it October of '94 that you took control of
22 the Tishomingo Living Center?

23 A. No. It was late November or early December.

24 Q. And did you then go down there and actually have
25 hands on the management of that yourself?

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- 1 A. No.
- 2 Q. The three of you hired somebody to do the
- 3 management?
- 4 A. Carol Rollins, who has been an administrator for
- 5 years and years and years, took over as the
- 6 administrator.
- 7 Q. So you were an owner of the company but not
- 8 personally involved in administering it; is that
- 9 right?
- 10 A. I was not there hands on, no.
- 11 Q. And the outside capital that was obtained was a
- 12 loan?
- 13 A. It was actually an option.
- 14 Q. Option on the stock, option on the building,
- 15 what?
- 16 A. It was called an option for ownership, as I
- 17 remember. I'd have to go back and look, but --
- 18 Q. And who was the outside venture capitalist in
- 19 this?
- 20 A. One was a nursing home owner in Alabama, and the
- 21 other one was my father.
- 22 Q. And how did things go with the Tishomingo Living
- 23 Center?
- 24 A. Well it went well. I was there at the beginning
- 25 of it when we took it over because we had to

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1 completely -- to -- to do physical labor and to
2 hire. I did, was there at the beginning of the --
3 the beginning. Things went very well. I --

4 Our plan was to manage the nursing home and open
5 an assisted living facility, and that happened.

6 Q. And eventually this led to some litigation
7 between all of you, but in the interim, was it a
8 successful enterprise financially?

9 A. We didn't lose money. At the outset it was --
10 There were a lot of repairs that had to be made,
11 and so that type -- I mean at the very beginning we
12 were -- there were a lot of expenditures, yes. But
13 it's doing okay as far as I know.

14 Q. And how did this begin to unravel as an amicable
15 business relationship?

16 A. The Skinners filed suit for ownership interest
17 in the nursing home.

18 Q. Against you?

19 A. Against me and the Rollinses, both Rollinses.

20 Q. What was the role that the Skinners had in
21 this? I thought that they were -- the Skinners -- I
22 misunderstood you. I thought the Skinners were not
23 equity owners in this.

24 A. They were not equity owners in it.

25 Q. But they were claiming that there was some

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1 agreement to give them an equity position?

2 A. Yes.

3 Q. And the suit was pending long enough at least

4 that your deposition was taken; --

5 A. Yes.

6 Q. -- correct?

7 A. The suit was --

8 Yes.

9 Q. And how was the litigation resolved?

10 A. It was settled.

11 Q. And settled on what basis?

12 A. Well let's see, we wound up -- I --

13 I don't know whether you would call this a
14 global settlement. We wound up agreeing to pay the
15 Skinners money to settle the claim and to dissolve
16 CODE, Inc.

17 Q. And so the present status is that you still own
18 50 percent of this?

19 A. No. I sold my interest.

20 Q. To the Rollinses?

21 A. I sold my interest to the man from Alabama who
22 wanted to buy an option anyway.

23 MR. LINVILLE: Counsel, when you -- when
24 you come to an appropriate time.

25 MR. McKENNA: Fine. Why don't we -- this

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1 is now --

2 Now is as good a time as any.

3 (Recess taken.)

4 BY MR. McKENNA:

5 Q. I take it that as a consequence of all of this,

6 you have no further business dealings with the

7 Rollinses or the Skinners; correct?

8 A. That's correct.

9 Q. And is it fair to say that since the time that
10 you wound up your affairs with those folks in January
11 or February of 1996, that your sole professional
12 activity with the exception of consulting in these
13 cases has been your work at Tulane?

14 A. '96. Basically true.

15 Q. Sorry?

16 A. Yes, that's basically true.

17 Q. You haven't practiced law in any sense since
18 '93; is that true?

19 A. '94.

20 Q. Sorry, '94.

21 What did you do as a consultant to medical
22 equipment company in 1992? You've described it
23 briefly in your resume.

24 Let me ask a few more focus questions. I'm
25 sorry.

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1 Is medical equipment company the actual name of
2 the company, or is that a generic description of a
3 business?

4 A. It's a generic description of a business, and
5 I -- actually I don't remember -- even remember what
6 the name of it -- what it was.

7 Q. But at any rate, it was located in Marianna,
8 Florida?

9 A. Uh-huh.

10 Q. How did --

11 Is that yes?

12 A. I'm sorry. Yes.

13 Q. It's the end of the day. I do need to try to
14 keep the record straight.

15 How did you happen to have that consultation?

16 A. Well this was a business that the Skinners, who
17 were just mentioned, were looking into with someone
18 in Florida, so they asked me to go down there and
19 help set the company up, I along with a CPA, a
20 Florida CPA.

21 Q. All right.

22 A. Basically what I did was set them up, get all
23 the paperwork and provide all the numbers, et
24 cetera. Basically what it says here.

25 Q. And in that connection you hired Florida

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1 lawyers; correct?

2 A. Well I didn't hire anybody. But yes, they did.

3 Q. Well you located and advised the retention of

4 local Florida counsel; right? That's what you put in

5 your resume.

6 A. Yes. I mean I told --

7 There was no way I was going to act as counsel

8 in Florida. I mean --

9 Q. Right. And when I put it this way, you acted in

10 behalf of the Skinners to hire local lawyers; right?

11 A. No. I recommended to the Skinners that they

12 hire local attorneys.

13 Q. All right.

14 A. They went physically to Florida and hired them.

15 I mean I had nothing --

16 Q. But you found them.

17 A. I found --

18 Seems like there was more than one possibly.

19 The -- no.

20 Ultimately, I guess, the answer is yes. I'm not

21 making sense.

22 Q. How much time did you --

23 A. Yes, yes, I recommended basis on -- based on the

24 recommendations of people in Florida.

25 Q. How much time did you spend totally on that

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1 project?

2 A. I spent a lot of time on that project. I did
3 not stay in Florida, so it was -- it was a -- I was
4 driving back and forth. I would go there and stay
5 perhaps for a couple of days at a time. So it wasn't
6 I just moved lock, stock and barrel to Florida. But
7 it took -- I don't remember, my guess is it was two
8 or three months in getting everything in place.

9 Q. And what were you paid for your consulting work?

10 A. I don't remember what I billed them.

11 Q. Approximately.

12 A. I don't remember. I don't remember. I --

13 Less than a hundred dollars an hour, but I don't
14 remember what.

15 Q. And you've separated this out in your curriculum
16 vitae from your other work as a consultant because
17 the other work had to do with assisted living
18 facilities and this did not; is that correct?

19 A. That's correct.

20 Q. When you call it a medical equipment company,
21 what was to be the enterprise? What were they going
22 to do?

23 A. Sell medical equipment to nursing homes, and I
24 can't remember whether hospitals or not, but
25 that's -- that's what they did.

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1 Q. And although you were involved in assisting with
2 the incorporation and the obtaining of provider
3 numbers and so forth, you can't remember the name of
4 the company?

5 A. I'm drawing a blank.

6 Q. Well you couldn't remember --

7 A. PRN Devices, Inc.

8 Q. I'm sorry. Again?

9 A. PRN Devices, Inc., I think.

10 Q. Okay. And what was the meaning of the word PRN?

11 A. As needed.

12 Q. Okay. And was it ever discussed with the
13 Skinners that you would have an equity position in
14 that company?

15 A. No.

16 Q. It was always a matter of you being a consultant
17 to them.

18 A. Yes.

19 Q. And beyond what you've told me, you can't recall
20 how much time you spent --

21 You made several trips down there for several
22 days at a time; is that what you're saying?

23 A. Well several trips. Usually I at least spent
24 the night because it's so far, but it's not that I
25 stayed several days when I went. But I usually at

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1 least stayed overnight.

2 Q. And the total span of time involved was several
3 months; correct?

4 A. The best I remember, yes.

5 Q. And as you look over this description in your
6 curriculum vitae, can you recall any other services
7 or functions that you performed as a part of that
8 consultation besides what you described in writing?

9 A. That's basically what I did.

10 Q. Now the present position you have at Tulane is
11 different from what you described during that
12 five-semester period ending with the fall semester of
13 '94; is it not?

14 A. That's correct.

15 Q. And when did you get this position as a clinical
16 assistant professor?

17 A. I began that in January of '95.

18 Q. And how did you come about getting this
19 position? Did you have to apply for it? Were you
20 recruited? What took place?

21 A. I was recruited.

22 Q. And who recruited you?

23 A. David Fine, the chair of the Department of
24 Health Systems Management.

25 Q. All right. And as opposed to your title as an

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1 adjunct professor, what does clinical assistant
2 professor mean? What do those terms mean in terms of
3 the academic life at Tulane?

4 A. Assistant professor is the entry level into
5 academia. Clinical is a fairly new track. In fact I
6 believe I was the first hired full time on a clinical
7 track in our department, clinical opposed to tenure
8 track. And then I have a choice, I have the option
9 of tenure or clinical. This means that my
10 responsibilities more are of teaching. I do not have
11 to publish, that's not part of the criteria. So
12 clinical means I -- I teach. The criteria is I -- is
13 a larger teaching load and to keep abreast of what's
14 going on out in the field, so to speak, and to
15 involve ourselves with what's going on in the real
16 world.

17 Q. And are you engaged in research as a part of
18 your duties there?

19 A. Not academic research.

20 Q. Well --

21 A. I suppose you -- --

22 Q. -- what other kind of research is it that you're
23 referring to?

24 A. Market research, I mean demographics and things
25 like that, but not -- and what's actually going on

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1 out in the field. That's it. But not with the
2 intent of writing some academic paper about it.

3 Q. Now I note that the titles of the courses are
4 the same as the titles of the courses that you were
5 teaching as an adjunct professor. Are they basically
6 the same courses?

7 A. Yes.

8 Q. And to the same students? Not the same --

9 MR. DARLING: Only the poor ones.

10 Q. The same kind of students, graduate students in
11 that program?

12 A. Yes.

13 Q. Is your teaching load approximately the same as
14 it was in the second -- I mean, I'm sorry, the fall
15 semester of '94; that is to say, two courses?

16 A. Two courses a semester, but there's a fifth
17 course that sometimes, depending upon when it's
18 taught, overlaps with sometimes both semesters. The
19 EMHA program that is listed here, which is an
20 executive program, is taught on weekends for -- I
21 believe it's two years. It's --

22 Teaching in that program involves weekend
23 teaching.

24 Q. Are you considered to be a full-time faculty
25 member?

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1 A. Yes.

2 Q. Is this a typical teaching load for a full-time
3 faculty member at Tulane?

4 A. Actually it's heavier than a lot of the
5 departments.

6 Q. Perhaps I misunderstand.

7 You teach two courses per semester and another
8 course that overlaps sometimes on weekends?

9 A. It's five classes a year.

10 Q. And do these classes still meet one night a
11 week, except for the weekend courses you're talking
12 about?

13 A. Yes.

14 Q. Just to make sure I understand, your load isn't
15 any different than it was at a time when you were
16 commuting from Jackson to New Orleans to do this
17 teaching; is that right?

18 MR. LINVILLE: Objection.

19 A. Only one semester when I commuted from Jackson
20 did I teach two classes. For the most of that time
21 it was only one.

22 Q. So the load is the same as it was during that
23 semester that you taught two classes.

24 MR. LINVILLE: Objection.

25 A. Classroom time is the same, but when I was

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1 teaching as an adjunct, all it -- all I was required
2 to do was teach a class and I could go home. The
3 difference -- one of the differences is what the rest
4 of the job entails.

5 Q. All right. Perhaps I don't understand that.

6 And can you help me out? What does the rest of the
7 job entail now as opposed to when you were an adjunct
8 professor?

9 A. Now Tulane University has rights to my time when
10 I'm not in the classroom. It didn't before. So a
11 lot of the stuff is academic committee meetings, it's
12 advising students, being -- doing other things for
13 the university besides being in the classroom. For
14 example, I've been -- I've been consulting in Russia
15 on behalf of Tulane. I mean that's not stuff I would
16 have been asked to do as an adjunct.

17 Q. Okay. What are the committees that you were
18 on. In the faculty, I take it, faculty committees?

19 A. I serve on the grievance committee of the
20 general faculty of the School of Public Health and
21 Tropical Medicine, and I'm the chair of a
22 departmental grievance committee that's just been
23 formed.

24 Q. And this departmental grievance committee is
25 to --

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1 What kind of grievances does that deal with?

2 A. If a student has a grievance against a
3 professor.

4 Q. Which can range from anything from a dispute
5 over a grade to something like sexual harassment?

6 A. It's primarily grading. It's primarily grades.

7 Q. Does it include other issues such as sexual
8 harassment?

9 A. No.

10 Q. When you say "it's primarily grading," then,
11 what other issues aside from grading does the
12 grievance committee address?

13 A. I'm not sure. I've just -- I mean we're talking
14 within the last almost hours.

15 Q. Okay.

16 A. And so I'm still learning what this means.

17 It is primarily grades. I'm not sure that
18 anything else can be heard or not; we're still trying
19 to figure that out. Procedures are not real clear.

20 Q. What about the overall faculty grievance
21 committee that you're a member of, is that the same
22 subject matter?

23 A. Oh, no. That's faculty grieving against the
24 university, against the school.

25 Q. And what kinds of issues would be entailed?

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- 1 A. Alleged improper termination, for example.
- 2 Q. Tenure disputes?
- 3 A. Tenure, I'm -- I'm not sure.
- 4 Q. Anything else?
- 5 A. Process. I don't know if the decision, but
- 6 perhaps --
- 7 I'm not sure. Again, I've not been on this --
- 8 I'm not --
- 9 I don't remember what else.
- 10 Q. When did you acquire your position on the
- 11 overall grievance committee?
- 12 A. In May, I think, of this year.
- 13 Q. Okay. Before that time were you on any other
- 14 committees there?
- 15 A. Yes, the Department of Health Systems Management
- 16 has completely revised its promotion tenure
- 17 documents -- or document, or whatever you want to
- 18 call it, and I was a member of the committee to
- 19 draft -- to write and come up with the final draft of
- 20 the changes.
- 21 Q. Any others?
- 22 A. Not that I can think of now.
- 23 Q. How many students do you advise?
- 24 A. I probably have --
- 25 Well I have students that I advise formally and

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1 a lot that I advise informally.

2 Q. Let's take the formal.

3 A. The formal case -- formal load is probably -- I

4 don't know, perhaps a dozen.

5 Q. And has that been pretty consistent or true

6 since you became a clinical assistant professor,

7 approximately a dozen formal?

8 A. That's probably about -- I --

9 I'm estimating. I'm not sure that that's the

10 exact number.

11 Q. And the other duties that the university asks of

12 you, is there anything besides the work that you've

13 done in Russia?

14 A. For the --

15 That Tulane has asked me to do instead of

16 teaching?

17 Q. Yeah. You said there are other duties that the

18 university expects or asks of you, and you mentioned

19 the Russian thing, which I want to explore, but I

20 want to know first if there are other things.

21 A. Well, for example, last May, I believe, I

22 organized and held a seminar for nursing home

23 administrators in the state of Louisiana. Well it

24 wasn't -- nursing home administrators in Louisiana,

25 on behalf of Tulane. I conducted that.

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1 Q. When did you say you did that?

2 A. I think it was in May. I'm not sure.

3 Q. All right.

4 A. Possibly June. It was this year.

5 Q. Okay.

6 A. And we are encouraged if not expected to be
7 involved with the community and in a -- in
8 organizations within our field, and that's why I've
9 done things like I mentioned earlier, I think, I sit
10 on the Educational Planning Committee for the Home
11 Services for the Aged, the national, and I will --
12 have not yet attended the first meeting, but I will
13 be on the policy-setting committee for the Louisiana
14 Association of Homes and Services for the Aging
15 beginning in a couple months, that type of thing.

16 Q. Anything else, except for the Russian stuff
17 which I will ask you about?

18 A. Not that I can think of at the moment.

19 Q. Now how did you become involved in work in
20 Russia, as you have alluded to in your curriculum
21 vitae and mentioned here today?

22 A. Tulane University entered into what's called an
23 educational -- I guess a partnership, Tulane
24 University, the University of Minnesota, University
25 of Kentucky, University of Washington, I think,

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1 entered into a partnership to go to Russia, and our
2 involvement was to -- Tulane's involvement was to
3 help set up a -- an educational -- executive-type
4 education program in health management in Moscow.

5 Q. Are you the only person from the Tulane faculty
6 that is involved in that?

7 A. No. The man who began Tulane's involvement is
8 Dr. Walter Burnett. After he began, he asked that I
9 join, which I did. And then we have two others who
10 went once or -- I don't remember, probably once, from
11 our department also to Russia.

12 Q. Do you know who it is from the University of
13 Minnesota who's involved in this?

14 A. George Johnson, I believe, Bright Dornblaser, I
15 believe, Vern Wentworth. That's all I remember.

16 Q. Do you know what departments they represent?

17 A. Something like Health Systems Management. I
18 don't know what it's called.

19 Q. Okay. How many times have you been to Russia?

20 A. Ten.

21 Q. And did you have an interest in Russia before
22 being asked to be involved in this?

23 A. No. I mean it's not something I'd ever even
24 thought about, so --

25 Q. So all of the travel to Russia you've done has

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1 been in connection with this enterprise that you're
2 describing.

3 A. Yes.

4 Q. Is Tulane being paid something by interests in
5 Russia, the government or private interests, for this
6 activity?

7 A. Tulane was not paid. They donated.

8 Q. Do they pay your expenses for travel to Russia?

9 A. They pay for travel, yeah.

10 Q. And has all of the travel been since January of
11 '95, all 10 trips?

12 A. Uh-huh. Yes.

13 Q. And what are the duration of the trips when you
14 take them?

15 A. Sometimes a week, sometimes 10 days, sometimes
16 two weeks. I mean they vary.

17 Q. All right.

18 A. I have been once for, like, three days.

19 Q. All right. And what do you do when you go
20 there?

21 A. We helped design a curriculum in health
22 management and teach Russian teachers from the Moscow
23 Medical Academy to teach this. So they're now
24 teaching it. We began, as I say, teaching them, and
25 then our role was to go back and more in a consulting

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1 role of a -- they were taught it themselves, and now
2 it's them teaching.

3 Q. What subjects do you personally teach them?

4 A. Oh, in the context of when we taught them,
5 like -- called training the trainers, and so it was
6 not -- I mean a lot of it is educational
7 presentation.

8 Q. You mean you teach them how to teach without
9 reference to the subject matter; is that what you're
10 saying?

11 A. Part of it is teaching methodology. Not all of
12 it, but part of it is. And then some of the --

13 A lot of it was helping them develop their own
14 courses. We didn't teach the courses. Russians were
15 teaching the courses to Russian students.

16 Q. Right.

17 A. So our role was never to actually teach the
18 courses.

19 Q. No, I understand that.

20 You said you teach the teachers, and that's what
21 I meant when I asked you what subjects do you teach
22 them, meaning teachers. What subjects do you
23 personally teach to the teachers, the Russian
24 teachers, who then in turn teach something to the
25 students there? What are -- what are you bringing to

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1 the table, so to speak?

2 A. What we're bringing to the table is --

3 Q. Sorry. Perhaps let me --

4 I'm sorry for interrupting, but I'm interested
5 in what you personally teach to the teachers, to the
6 Russian teachers. Not what Tulane people generally
7 do, but what did you. What subjects do you teach?

8 A. And I'm trying to tell you it's not a matter of
9 teaching subjects, it's a matter of setting up
10 curriculum and how you prepare what you're going to
11 teach. And they would teach each other before they
12 were teaching students with us there critiquing. So
13 we're talking about 17 different modules in health-
14 care management in -- ranging from management --
15 it --

16 Virtually the topics that I teach in Principles
17 of Health Care Management 603 are -- it's almost the
18 same subject matter of the modules that they are
19 teaching. But it's not my teaching a course to them.

20 Q. All right. Okay.

21 A. And now I've been working on long-term care
22 there in addition.

23 Q. And the trips that you make to Russia, are those
24 all devoted to this interaction with the Russian
25 teachers, or is there a component of it that has to

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1 do with travel and experiencing Russian culture?

2 A. No. I mean it's --

3 Usually when we're there, we're working most of
4 the time when we're there. Quite -- I mean sometimes
5 we'll have a day or two, but no, there's not been a
6 junket component.

7 Q. Have any of the 10 trips that you've taken been
8 paid for by anybody other than Tulane University?

9 A. None of those trips were paid for by Tulane
10 University, with the exception of my last one. So
11 I'll explain.

12 The first nine were paid for out of the grants
13 to which Tulane donated Walter Burnett and me.

14 Q. Okay. I guess I don't understand. Are you
15 saying that your personal -- your expenses for the
16 first nine trips were not paid by the university?

17 A. That's correct.

18 Q. They were paid by you?

19 A. No. They were paid by an organization called
20 IREX, International Research Exchange, I believe, as
21 a subcontractor -- or maybe a -- maybe as a
22 contractor to a USAID grant. It's USAID funds coming
23 down through IREX.

24 Q. So this organization, funded in substantial part
25 by a government grant, paid your expenses and Tulane

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1 commits your time; is that what happens?

2 A. Right. That's correct.

3 MR. LINVILLE: When you come to a stopping
4 point here, we'll --

5 MR. McKENNA: Well why don't we stop now.

6 As I --

7 Off the record.

8 (Discussion off the record.)

9 (Deposition recessed at 5:36 o'clock p.m.)

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1 C E R T I F I C A T E

2 I, Richard G. Stirewalt, hereby certify
3 that I am qualified as a verbatim shorthand reporter;
4 that I took in stenographic shorthand the testimony
5 of JUDITH W. OVERALL at the time and place aforesaid;
6 and that the foregoing transcript consisting of pages
7 1 through 186 is a true and correct, full and
8 complete transcription of said shorthand notes, to
9 the best of my ability.

10 Dated at Minneapolis, Minnesota, this 20th
11 day of November, 1997.

12

13

14

15 RICHARD G. STIREWALT

16 Registered Professional Reporter

17 Notary Public

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1 C E R T I F I C A T E

2 I, JUDITH W. OVERALL, the deponent, hereby
3 certify that I have read the foregoing transcript
4 consisting of pages 1 through 186, and that said
5 transcript is a true and correct, full and complete
6 transcription of my deposition except:

7

8

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10

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14

15 JUDITH W. OVERALL

16 Deponent

17

18 Sworn and subscribed to before me this day
19 of , 1997.

20

21

22

23 Notary Public

24

25 My commission expires .

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